TITLE 49—TRANSPORTATION

Subtitle IV of this title was enacted as positive law by Pub. L. 95-473, § 1, Oct. 17, 1978, 92 Stat. 1337

Subtitle		Sec.
I.	[Reserved—Department of Transportation]	
II.	[Reserved—Transportation Programs]	
III.	[Reserved—Air Transportation]	
IV.	Interstate Commerce	10101
V.	[Reserved—Miscellaneous]	

TABLE SHOWING DISPOSITION OF FORMER SECTIONS OF TITLE 49

Title 49 Former Sections	*Title 49 New Sections*
1(1)	10501
1(2)	10501
1(3)	10102
1(4) (related to standards)	10701
1(4) (2d sentence last cl.)	10702
1(4) (1st sentence related to through routes and 2d sentence less last cl.).	10703
1(4) (1st sentence 14th-23d words).	11101
1(5)(a)	10701
1(5)(b) (7th and 8th sentences)	10706
1(5)(b) (less 7th and 8th sentences).	10701
1(5)(c)(i)	10709
1(5)(c)(ii)	10102
1(5)(d)	Rep.
1(5½)	10749
1(6) (last sentence)	10750
1(6) (less last sentence)	10702
1(7) (1st sentence, 32 words before 8th semicolon-9th semicolon).	10721
1(7) (1st sentence words before 2d semicolon, words between 5th semicolon and 21st word after 7th semicolon, 1st-18th words after 9th semicolon, 1st proviso (words before semicolon), 2d, and 3d provisos).	10722
1(7) (1st sentence 1st-4th and 13th-20th words after 2d semicolon and words between 3d and 5th semicolons).	10723
1(7) (1st sentence 5th-12th and 21st-29th words after 2d semicolon and last 11 words before 1st proviso).	10723
1(7) (1st sentence 1st proviso, words between semicolon and colon).	10724
1(7) (less 1st sentence)	11905
1(8)	10746
1(9)	11104
1(10)	10102
1(11)	11121
1(12) (3d sentence)	11902
1(12) (less 3d sentence)	11126
1(13)	11121
1(14)(a)	11122
1(14)(b)	11105
1(15) (related to car service less last sentence).	11123
1(15) (last sentence)	11128
1(15) (related to service less last sentence).	11127
1(16) (related to traffic less (b)).	11124
1(16) (related to service less (b)).	11127
1(16)(b)	11125
1(17)(a) (1st sentence)	11121
1(17)(a) (last sentence less proviso).	11901
1(17)(a) (last sentence proviso)	10501
1(17)(b)	11907
1(18)(a)	10901
1(18)(b)	10901
1(18)(c)	10902
1(18)(d)	10907
1(18)(e) (related to action by the Attorney General).	11703
1(18)(e) (related to Commission action).	11702
1(18)(e)	11901
1(18)(e) (related to State enforcement).	11505
1(19)-(22)	Rep.
1a(1) (1st sentence)	10903
1a(1) (less 1st and last sentences).	10904
1a(1) (last sentence)	10907
1a(2)	10904
1a(3)	10904
1a(4)	10903
1a(5)	10904
1a(6)	10905
1a(7)	10905
1a(8)	Rep.
1a(9) (related to Commission action).	11702
1a(9) (related to action by the Attorney General).	11703
1a(9) (last sentence)	11901
1a(9) (related to State enforcement).	11505
1a(10)	10906
1a(11)	10905
2	10741
3(1)	10741
3(1a)	Rep.
3(2) (1st sentence)	10743
3(2) (less 1st sentence)	10744
3(3)	10744
3(4) (1st sentence 2d cl., 2d sentence related to standards).	10701
3(4) (less 1st sentence 2d cl., and 2d sentence related to facilities).	10742
3(5)	11103
4	10726
5(1) (words between semicolon and 1st colon).	11914
5(1) (less words between semicolon and 1st colon).	11342
5(2)(a)	11343
5(2)(b)-(e)	11344
5(2)(f)	11347
5(2)(g)	11345
5(2)(h)	11345
5(3)(a)-(e)	11346
5(3)(f) (last sentence)	11346

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Title 49 Former Sections	*Title 49 New Sections*
5(3)(f) (less last sentence)	11350
5(3)(g)	11346
5(4)	11348
5(5)	11343
5(6)	11343
5(7)	11343
5(8) (last sentence)	11912
5(8) (less last sentence)	11701
5(9)	11702
5(10)	11701
5(11)	11343
5(12)	11341
5(13)	Rep.
5(14)	11343
5(15) (words after semicolon)	11914
5(15) (less words after semicolon).	11321
5(16)	11321
5(17)	11321
5a	Rep.
5b	10706
5c	10706
6(1)	10762
6(2)	10765
6(3)	10762
6(4)	10762
6(5)	10764
6(6)	10762
6(7)	10761
6(8)	11128
6(9)	10762
6(10)	11901
6(11)	10503
6(12)	10765
7	10745
8	11705
9	11705
10(1)	11914
10(2)–(4)	11904
11	10301
12(1)(a) (less 2d sentence words after semicolon and last sentence words after 1st semicolon and before last semicolon).	10321
12(1)(a) (words after semicolon in 2d sentence).	10311
12(1)(a) (last sentence less words before 1st semicolon and after last semicolon).	11703
12(1)(b)	10505
12(2)–(7)	10321
13(1)	11701
13(2) (last sentence)	11502
13(2) (less last sentence)	11701
13(3)	11502
13(4)	11501
13(5)	11501
13(6)	10326
13a(1)	10908
13a(2)	10909
14(1)	10310
14(2)	10310
14(3) (last sentence)	10311
14(3) (less last sentence)	10310
15(1)	10704
15(2)	10324
15(3)	10705
15(4)	10705
15(5)	10748
15(6)	10748
15(7)	10708
15(8)	10707
15(9)	10709
15(10)	10763
15(11)	11710
15(12)	10753
15(13)	11910
15(14)	11910
15(15)	10747
15(16)	10321
15(17)	10727
15(18)	10728
15(19)	10729
15a(1)–(5)	10704
15a(6)	Rep.

TABLE SHOWING DISPOSITION OF FORMER SECTIONS OF TITLE 49—Continued

Title 49 Former Sections	*Title 49 New Sections*
15b	Rep.
16(1)	11705
16(2)	11705
16(3)(c)	11705
16(3)(g)	11705
16(3)(h)	Rep.
16(3) (less (c), (g), and (h))	11706
16(4)	11705
16(5)	10329
16(6)	10324
16(7)	11914
16(8)	11901
16(9)	11901
16(10)	11901
16(11)	10301
16(12) (related to Commission action).	11702
16(12) (related to action by the Attorney General).	11703
16(12) (related to action by private person).	11705
16(12) (enforcement of money award).	11705
16(13)	10303
16a	Rep.
17(1)	10302
17(2) (1st sentence 80th-98th words and 2d sentence).	10304
17(2) (less 80th-90th words in 1st sentence, less 2d sentence).	10305
17(3) (less 2d sentence and last 42 words of 3d sentence).	10306
17(3) (2d sentence)	10301
17(3) (last 42 words of 3d sentence).	10321
17(4) (1st and 3d sentences)	10305
17(4) (2d sentence)	10303
17(5)	10322
17(6)	10323
17(7)	10323
17(8)	10324
17(9)(j)	10310
17(9) (less (j))	10327
17(10)	10325
17(11)a	10305
17(11)	10306
17(12)	10328
17(13)	10308
17(14)(a)	11701
17(14)(b)	Rep.
17(15)	10309
18(1) (1st and 3d sentences)	10301
18(1) (2d sentence)	10303
18(1) (4th sentence)	10307
18(1) (last sentence)	10321
18(2)	10301
19	10307
19a(a) (1st and last sentences)	10781
19a(a) (2d and 3d sentences)	10301
19a(b)	10782
19a(c)	10781
19a(d)	Rep.
19a(e)	10783
19a(f)	10784
19a(g)	10784
19a(h)	10785
19a(i)	10785
19a(j)	10785
19a(k) (1st sentence)	10786
19a(k) (less 1st sentence)	11901
19a(*l*)	11703
20(1)	11145
20(2)	11145
20(3) (less (e))	11142
20(3)(e)	Rep.
20(4)	11143
20(5)	11144
20(6) (2d sentence, 1st cl.)	11144
20(6) (2d sentence, 2d cl.)	11145
20(6) (less 2d sentence)	11144
20(7)(a)	11901
20(7)(b) (proviso)	11144
20(7)(b) (less proviso)	11909
20(7)(c)	11901
20(7)(d)	11901

TABLE SHOWING DISPOSITION OF FORMER SECTIONS OF TITLE 49—Continued

Title 49 Former Sections	*Title 49 New Sections*
20(7)(e)	11901
20(7)(f)	11910
20(8)	11141
20(9)	11703
20(10)	10301
20(11) (2d sentence, 1st proviso).	10103
20(11) (less 1st sentence 2d proviso related to released value, 2d sentence less words before 2d proviso).	11707
20(11) (1st sentence 2d proviso related to released value), 2d sentence (less 1st-5th provisos).	10730
20(12)	11707
20a(1)–(10)	11301
20a(11) (2d and 3d sentences)	11709
20a(11) (less 2d, 3d, and 4th sentences).	11301
20a(11) (last sentence)	11911
20a(12) (last sentence)	11911
20a(12) (less last sentence)	11322
20b(1)	11361
20b(2) (1st–3d sentences, 4th sentence less words between 8th comma and period, 9th sentence).	11362
20b(2) (4th sentence, words between 8th comma and period, 8th comma and period, 8th sentence).	11363
20b(2) (5th and 7th sentences)	11364
20b(2) (less 1st–9th sentences)	11365
20b(3) (1st and last sentences)	11362
20b(3) (less 1st and last sentences).	11363
20b(4)	11365
20b(5)	11361
20b(6)	11366
20b(7)	Rep.
20b(8)	11362
20b(9)	11367
20b(10)	11321
20b(11)	11367
20b(12)	Rep.
20b(13)	11316
20c	11303
21	10311
22(1) (1st sentence 1st 26th and 62d–76th words).	10721
22(1) (1st sentence 77th–86th words and 2d proviso, 2d–4th sentences).	10722
22(1) (1st sentence words between 2d and 4th semicolons).	10722
22(1) (1st sentence words between 4th and 5th semicolons).	10722
22(1) (1st sentence 27th–61st words and words between 1st and 2d semicolons).	10723
22(1) (1st sentence words between 6th semicolon and 1st proviso).	10723
22(1) (last 2 sentences)	10724
22(1) (1st sentence words between 5th and 6th semicolons).	10103
22(1) (1st proviso 1st sentence)	Rep.
22(2) (less 1st sentence proviso).	10721
22(2) (1st sentence proviso)	Rep.
23	11703
25	Rep.
26a	11504
26b	10381–10388
26c	11503
27	Rep.
41(1) (1st sentence)	11915
41(1) (less 1st sentence)	11903
41(2) (related to corporate violations).	11903
41(2) (related to corporate violations).	11915

TABLE SHOWING DISPOSITION OF FORMER SECTIONS OF TITLE 49—Continued

Title 49 Former Sections	*Title 49 New Sections*
41(2) (last sentence)	11916
41(3)	11902
42	Rep.
43	11703
44	T. 15 § 28
45	T. 15 § 29
46	11913
47, 48	Rep.
49	Elim.
50 (related to notice)	10329
50 (related to process)	10330
51 (related to ownership)	11321
51 (related to 49:6(11))	10503
52	10783
53	Elim.
54–59	Rep.
60	11507
61–64	Rep.
65	10721
65a	10721
66	T. 31 § 244
67	Elim.
71–79	Rep.
80	T. 40 § 316
141	Rep.
142	T. 15 § 1528
143	Rep.
151–157	Rep.
250–268	Rep.
301	Rep.
302(a)	10521
302(b)(1)	10521
302(b) (less (1))	11506
302(c)	10523
303(a)(1)	10102
303(a)(2)	10342
303(a)(3)	Rep.
303(a)(4)	10341
303(a)(5)	Rep.
303(a)(6)	Rep.
303(a)(7)	Rep.
303(a)(8)	10102
303(a)(9)	10102
303(a)(10) (proviso)	10522
303(a)(10) (less proviso)	10521
303(a)(11)	10521, 10927
303(a)(12)	10102
303(a)(13)	10102
303(a)(14) (words before 2d comma).	10102
303(a)(14) (words after 2d comma).	10502
303(a)(15)	10102
303(a)(16)	10102
303(a)(17)	10102
303(a)(18)	10102
303(a)(19)	10102
303(a)(20)	Rep.
303(a)(21)	Rep.
303(b)	10526
303(c) (words between 6th and 7th commas).	10521
303(c) (words before "nor", less words between 6th and 7th commas).	10921
303(c) (less words before "nor").	10524
304(a) (matter preceding (1))	10321
304(a)(1) (related to service)	11101
304(a)(1) (related to accounts)	11142
304(a)(2) (less "qualifications" through period).	11142
304(a)(4)	11142
304(a)(4a)	10525
304(a)(6)	10321
304(a)(7) (words after semicolon).	10311
304(a)(7) (less words after semicolon).	10321
304(b)	11102
304(c)	11701
304(d) (related to administration matters).	10303
304(d) (related to reports)	10310
304(d)	10311
304(e)	11107

TABLE SHOWING DISPOSITION OF FORMER SECTIONS OF TITLE 49—Continued

Title 49 Former Sections	*Title 49 New Sections*
304(f)	11101
304a(1)	11706
304a(2)	11706
304a(3)	11706
304a(4)	11706
304a(5)	11705
304a(6)	11705
304a(7)	Rep.
304a(8)	11706
305(a) (1st and 2d sentences)	10341
305(a) (3d sentence less proviso).	10342
305(a) (3d sentence proviso)	10344
305(a) (less 1st-3d sentences)	10343
305(b) (2d sentence, 1st 12 words).	10344
305(b) (1st, 3d, 5th, and 12th sentences).	10342
305(b) (2d sentence 13th-37th words).	10341
305(b) (4th and 6th sentences).	10342
305(b) (7th sentence)	10343
305(b) (8th sentence)	10343
305(b) (9th sentence)	10343
305(b) (10th sentence)	10342
305(b) (11th sentence)	10344
305(b) (less 1st-12th sentences)	10342
305(c) (related to the Commission).	10307
305(c) (related to joint boards).	10344
305(d) (related to Commission and employee board subpena power).	10321
305(d) (related to joint boards)	10344
305(d) (related to liability)	11913
305(e)	10328
305(f) (4th sentence)	10344
305(f) (less 4th sentence)	11502
305(g) (proviso)	Rep.
305(g) (less proviso)	11705, 11706
305(h)	10301-10306, 10308, 10309, 10321-10325, 10328
305(i) (related to members of Commission).	10301
305(i) (related to joint board)	10344
305(i) (related to examiner)	10306
305(j)	10301
305a	10344
306(a)(1) (word before proviso)	10921
306(a)(1) (words after colon)	Rep.
306(a)(2)	10932
306(a)(3)	Rep.
306(a)(4)	Rep.
306(a)(5)	Rep.
306(a)(6)	10931
306(a)(7)	10932
306(b)	10922
307	10922
308(a), (b)	10922
308(c), (d)	10932
309(a)(1) (words before 1st proviso).	10921
309(a)(1) (words between 1st and last colons).	Rep.
309(a)(1) (last proviso)	10526
309(a)(2)	10932
309(a)(3)	Rep.
309(a)(4)	Rep.
309(a)(5)	Rep.
309(b) (last proviso)	10932
309(b) (less last proviso)	10923
310	10930
310a(a)	10928
310a(b)	11349
310a(c)	10928
310a(c)	11349
311(a) (words before 1st proviso).	10921
311(a) (words after 1st colon)	10924
311(b)	10924
311(c) (words before 2d comma).	10924
311(c) (words after 2d comma).	10927
311(d)	11144
312(a)	10925
312(b)	10926

TABLE SHOWING DISPOSITION OF FORMER SECTIONS OF TITLE 49—Continued

Title 49 Former Sections	*Title 49 New Sections*
312(c)	Rep.
313	11304
314 (related to securities)	11302
314 (related to penalties)	11911
315	10927
316 (related to standards)	10701
316(a) (1st-24th, 45th-59th words).	10703
316(a) (60th-143d words)	10702
316(a) (25th-44th words)	11101
316(b) (related to standards)	10701
316(b) (16th-33d words)	11101
316(b) (less 16th-33d words)	10702
316(c) (less 2d sentence)	10703
316(c) (2d sentence)	10702
316(d) (1st sentence)	10701
316(d) (less 1st sentence)	10741
316(e) (2d sentence 2d cl.)	10705
316(e) (2d sentence less 2d cl. and less proviso).	10704
316(e) (proviso)	10521
316(e) (less 2d sentence)	11701
316(f)	10705
316(g) (less proviso)	10708
316(g) (proviso)	Rep.
316(h)	10701
316(i)	10704
316(j)	10103
317(a)	10762
317(b) (proviso)	10103, 10721-10724
317(b) (less proviso)	10761
317(c)	10762
317(d)	10761
318(a) (1st sentence related to standards).	10701
318(a) (1st and 4th sentences, and 7th sentence proviso related to relief).	10702
318(a) (2d, 5th, and 6th sentences, and 7th sentence proviso related to general requirements).	10762
318(a) (3d sentence, 7th sentence less proviso, and 7th sentence proviso related to relief).	10761
318(b)	10704
318(c) (proviso)	Rep.
318(c) (less proviso)	10708
319	10730, 11707
320(a) (1st and 2d sentences)	11145
320(a) (less 1st and 2d sentences).	10764
320(b)	11145
320(c)	11143
320(d)	11144
320(e)	11141
320(g)	11144
321(a)	10329
321(b)	10324
321(c)	10330
321(d) (related to orders)	10324
321(d) (related to notice)	10329
321(d) (related to process)	10330
322(a)	11914
322(b)(1)	11702
322(b) (less (1))	11708
322(c) (related to rate violations).	11904
322(c) (related to evasion of regulation).	11906
322(d)	11910
322(e)	11910
322(f)	11910
322(g)	11909
322(h)	11901
323 (1st sentence)	10743
323 (less 1st sentence)	10744
324	11106
324a	10747
325a	11504
326, 327	Rep.
901	Rep.
902(a)	10102
902(b)	Rep.
902(c)	10102

TABLE SHOWING DISPOSITION OF FORMER SECTIONS OF TITLE 49—Continued

Title 49 Former Sections	*Title 49 New Sections*
902(d) (less exception)	10102
902(d) (words after 1st comma)	10502
902(e) (1st and 2d sentences)	10102
902(e) (3d–5th sentences)	10544
902(f)	10102
902(g)	10102
902(h)	10102
902(i)	10541
902(j)–(m)	10102
903(a)	10541
903(b)	10542
903(c)	10542
903(d)	10542
903(e)(i)	10544
903(e)(2) (last sentence)	Rep.
903(e)(2) (less last sentence)	10544
903(e)(3)	10544
903(f)	10543
903(g)	10544
903(h)	10544
903(i)	10721
903(j)	10541
903(k)	10541
903(*l*)	10929
904(a)	10321
904(b) (words after last semicolon).	10311
904(b) (less words after last semicolon).	10321
904(c)	11102
904(d)	11108
904(e)	11701
905(a) (1st sentence related to standards and 2d sentence).	10701
905(a) (1st sentence 1st cl.)	11101
905(a) (less 1st sentence 1st cl. and last sentence).	10702
905(b) (4th sentence)	10701, 10702
905(b) (less 4th sentence)	10703
905(c)	10741
905(d) (1st sentence 2d cl., 2d sentence related to facilities).	10701
905(d) (less 1st sentence 2d cl., 2d sentence related to standards).	10742
906(a)	10762
906(b)	10762
906(c) (proviso)	10103, 10721–10724
906(c) (less proviso)	10761
906(d) (1st sentence)	10761
906(d) (less 1st sentence)	10762
906(e) (1st sentence related to standards).	10701
906(e) (1st sentence and 7th sentence proviso related to relief).	10702
906(e) (2d, 4th, 5th, and 6th sentences, and 7th sentence provision, related to general requirements).	10762
906(e) (3d sentence, and 7th sentence less proviso, and 7th sentence proviso related to relief).	10761
907(a)	11701
907(b)	10704
907(c)	10701
907(d)	10705
907(e)	10705
907(f)	10704
907(g) (proviso)	Rep.
907(g) (less proviso)	10708
907(h)	10704
907(i) (proviso)	Rep.
907(i) (less proviso)	10708
908(a)–(e)	11705
908(f)(4)	11705
908(f) (less (4))	11706
908(g)	11705
909(a) (words before 1st proviso).	10921
909(a) (words after 1st colon)	Rep.
909(b)	10922
909(c)	10922
909(d)	10922
909(e)	10922

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Title 49 Former Sections	*Title 49 New Sections*
909(f) (words before 1st proviso).	10921
909(f) (words after 1st colon)	Rep.
909(g)	10923
910	10930
911(a)	10928
911(b)	11349
912	10926
912a	10925
913(a)	11145
913(b)	10764
913(c)	11142
913(d)	11143
913(e)	11144
913(f)	11144
913(g)	11144
913 (less (a)–(g))	11141
914	10747
915(a)	10329
915(b)	11701
915(c)	10324
915(d)	10324
915(e)	11914
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Chap. Sec.
29. Hazardous Liquid Pipeline Safety [New] 2001

CHAPTER 1—INTERSTATE COMMERCE ACT, PART I; GENERAL PROVISIONS AND RAILROAD AND PIPE LINE CARRIERS

NATIONAL TRANSPORTATION POLICY

Act Sept. 18, 1940, ch. 722, title I, § 1, 54 Stat. 899, which amended the Interstate Commerce Act, act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, by inserting provisions relating to the national transportation policy, was repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1466, and reenacted by the first section thereof as section 10101 of this title.

§ 1. Regulation in general; car service; alteration of line

REPEAL OF SECTION

Section repealed (except as affected by amendments after May 15, 1978) by Pub. L. 95–473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

AMENDMENT OF SECTION SUBSEQUENT TO REPEAL

Pub. L. 95–607, title IV, § 402, Nov. 8, 1978, 92 Stat. 3067, amended par. (14) of this section, subsequent to the repeal of this section by Pub. L. 95–473, by redesignating former subdivision (b) as (c) and adding a new subdivision (b) to read as follows:

(14) Establishment by Commission of rules, etc., as to car service; procedures applicable

* * * * *

(b) If the Commission finds, upon the petition of an interested party and after notice and a hearing on the record, that a common carrier by railroad subject to this part has materially failed to furnish safe and adequate car service as required by paragraph (11) of this section, the Commission may require such carrier to provide itself with such facilities and equipment as may be reasonably necessary to furnish such service, if the evidence of record establishes, and the Commission affirmatively finds, that—

(i) the provision of such facilities or equipment will not materially and adversely affect the ability of such carrier to otherwise provide safe and adequate transportation services;

(ii) the expenditure required for such facilities or equipment, including a return which equals such carrier's current cost of capital, will be recovered; and

(iii) the provision of such facilities or equipment will not impair the ability of such carrier to attract adequate capital.

(c) It shall be unlawful for any common carrier by railroad or express company, subject to this chapter, to make or enter into any contract, agreement, or arrangement with any person for the furnishing to or on behalf of such carrier or express company of protective service against heat or cold to property transported or to be transported in interstate or foreign com-

merce, or for any such carrier or express company to continue after April 1, 1941, as a party to any such contract, agreement, or arrangement unless and until such contract, agreement, or arrangement has been submitted to and approved by the Commission as just, reasonable, and consistent with the public interest: Provided, That if the Commission is unable to make its determination with respect to any such contract, agreement, or arrangement prior to said date, it may extend it to not later than October 1, 1941.

APPLICATION OF RATEMAKING AMENDMENTS OF PUB. L. 94-210 TO EXISTING PROVISIONS

Section 202(f) of Pub. L. 94-210 was restated in section 10711 of this title by Pub. L. 95-473, which enacted subtitle IV of this title.

STUDIES OF EFFECT OF RATEMAKING AMENDMENTS OF PUB. L. 94-210 ON DEVELOPMENT OF STABLE RAILWAY SYSTEM OF UNITED STATES; CONTENTS; DATA; TRANSMITTAL TO CONGRESS

Pub. L. 94-210, title II, § 202(g), Feb. 5, 1976, 90 Stat. 39, which had called for a study of the effect of section 202 of Pub. L. 94-210 on the development of an efficient and stable railway system, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466.

REVISION OF CAR SERVICE RULES, REGULATIONS, AND PRACTICES BY COMMISSION

Pub. L. 94-210, title II, § 212(b), Feb. 5, 1976, 90 Stat. 47, which required the Commission to revise its rules, regulations, and practices with respect to car service, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466.

INTERSTATE COMMERCE ACT; MODERNIZATION, REVISION, AND CODIFICATION

Pub. L. 94-210, title III, § 312, Feb. 5, 1976, 90 Stat. 60, which required the Commission to send a codification and revision of the Interstate Commerce Act and acts supplementary to it to Congress by Feb. 4, 1978, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466.

CONTINUATION OF PROVISIONS OF PARAGRAPH (15) UNTIL TERMINATION OF DECEMBER 16, 1950, NATIONAL EMERGENCY AND SIX MONTHS

Act June 30, 1953, ch. 165, 67 Stat. 115, as amended by acts July 1, 1952, ch. 570, § 1(a)(25), 66 Stat. 332; Mar. 31, 1953, ch. 13, 67 Stat. 18, directing that the provisions of par. (15) of this section remain in full force and effect first until July 1, 1953, and later until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466.

§§ 1a, 2

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95-473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 3

REPEAL OF SECTION

Section repealed by Pub. L. 95-473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

INVESTIGATION BY COMMISSION OF RATES ON MANUFACTURED AND AGRICULTURAL PRODUCTS AND RAW MATERIALS

Act Sept. 18, 1940, ch. 722, title I, § 5(b), 54 Stat. 902, calling for an investigation by the Commission of the reasonableness of rates, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466.

§ 4

REPEAL OF SECTION

Section repealed by Pub. L. 95-473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

EXISTING RATES, ETC., AS AFFECTED BY ACT SEPTEMBER 18, 1940

Act Sept. 18, 1940, ch. 722, § 6(b), 54 Stat. 902, providing that no lawful rate, fare, or charge could be affected by the amendment made by section 6(a) of act Sept. 18, 1940, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466.

§ 5

REPEAL OF SECTION

Section repealed by Pub. L. 95-473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

SEPARABILITY OF PROVISIONS

Act June 16, 1933, ch. 91, title II, § 209, 48 Stat. 217, relating to the separability of the provisions of act June 16, 1933, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466.

§ 5a

REPEAL OF SECTION

Section repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

§§ 5b, 5c

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95-473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 6

REPEAL OF SECTION

Section repealed by Pub. L. 95-473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

CONTINUATION OF PROVISIONS OF PAR. (8) UNTIL 6 MONTHS AFTER TERMINATION OF NATIONAL EMERGENCY

Act July 31, 1953, ch. 292, 67 Stat. 244, as amended by acts June 30, 1953, ch. 172, 67 Stat. 132; Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18; July 3, 1952, ch. 570, 66 Stat. 332, directing that the provisions of par. (8) of this section remain in full force and effect first until July 1, 1953, and later until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950, was repealed by Pub. L. 95–473, § 4(b), (d), Oct. 17, 1978, 92 Stat. 1466, 1470, effective Sept. 14, 1978.

§§ 7 to 10

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95–473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 11

REPEAL OF SECTION

Section repealed by Pub. L. 95–473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

REORGANIZATION PLAN NO. 1 OF 1969

Eff. Oct. 11, 1969, 34 F.R. 15783, 83 Stat. 859

Reorganization Plan No. 1 of 1969, which transferred all of the executive and administrative functions of the Interstate Commerce Commission to the Chairman of the Commission with respect to the appointment and supervision of personnel, the distribution of business among the administrative units of the Commission, and the use and expenditure of funds, was repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1470. See section 10301 et seq. of this title.

§§ 12 to 14

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95–473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 15. Determination of rates, routes, etc.; routing of traffic; disclosures, etc.

REPEAL OF SECTION

Section repealed (except as affected by amendments after May 15, 1978) by Pub. L. 95–473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

AMENDMENT OF SECTION SUBSEQUENT TO REPEAL

Pub. L. 95–607, title IV, § 401, Nov. 8, 1978, 92 Stat. 3067, amended par. (8)(c) and (d) of this section, subsequent to the repeal of this section by Pub. L. 95–473, to read as follows:

(8) Commission to determine lawfulness of new rates; applicability to common carrier by railroad; suspensions; accounts; hearing and basis of decision

* * * * *

(c) The limitations upon the Commission's power to suspend rate changes set forth in subdivisions (b)(i) and (ii) apply only to rate changes which are not of general applicability to all or substantially all classes of traffic and only if—

(i) the rate increase or decrease is filed prior to July 1, 1980;

(ii) the common carrier by railroad notifies the Commission that it wishes to have the rate considered pursuant to this subdivision; and

(iii) the aggregate of increases or decreases in any rate filed pursuant to clause (i) or (ii) of this subdivision during any calendar year is not greater than 7 per centum of the rate in effect on January 1 of that year.

(d) The Commission may not suspend a rate under this paragraph unless it appears from specific facts shown by the verified complaint of any person that—

(i) without suspension the proposed rate change will cause substantial injury to the complainant or the party represented by such complainant; and

(ii) it is likely that such complainant will prevail on the merits.

The burden of proof shall be upon the complainant to establish the matters set forth in clauses (i) and (ii) of this subdivision. Nothing in this paragraph shall be construed as establishing a presumption that any rate increase or decrease in excess of the limits set forth in clause (iii) of subdivision (c) is unlawful or should be suspended.

* * * * *

§ 15a

REPEAL OF SECTION

Section repealed by Pub. L. 95–473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 15b

REPEAL OF SECTION

Section repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 16

REPEAL OF SECTION

Section repealed by Pub. L. 95–473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 17. Commission procedure; delegation of duties; rehearings

REPEAL OF SECTION

Section repealed (except as affected by amendments after May 15, 1978) by Pub. L. 95–473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

AMENDMENT OF SECTION SUBSEQUENT TO REPEAL

Pub. L. 95–611, § 5, Nov. 8, 1978, 92 Stat. 3090, amended par. (9)(f)(i) of this section by substituting "a majority" for "not less than 7" subsequent to the repeal of this section by Pub. L. 95–473. As so amended, par. (9)(f)(i) reads as follows:

(9) Administrative hearing and review procedures for decisions, orders, reports, etc.; judicial relief; applicability

* * * * *

(f) In extraordinary situations in which an extension granted pursuant to subdivision (e) is not sufficient to allow for completion of necessary proceedings, the Commission may, in its discretion, grant a further extension if—

(i) a majority of the Commissioners, by public vote, agree to such further extension; and

* * * * *

REFORM OF RULES OF PRACTICE BEFORE COMMISSION; PROCEDURE FOR APPROVAL OR DISAPPROVAL OF PROPOSALS; EFFECTIVE DATE; FURTHER REVIEW AND REVISION

Pub. L. 94–210 title III, § 305, Feb. 5, 1976, 90 Stat. 53, which provided that the Commission study, develop, and submit to the Congress an initial proposal setting forth rules of practice under which the Commission proposes to conduct all adjudicatory and rulemaking proceedings with respect to any matter involving a common carrier by railroad subject to this part and which directed the Administrative Conference of the United States to submit to the Congress and to the Commission its comments on the rules of practice before the Commission proposed pursuant to this section, together with such recommendations as it considers appropriate, was repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1466.

§§ 18 to 20a

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95–473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 20b

REPEAL OF SECTION

Section repealed by Pub. L. 95–473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

CONGRESSIONAL DECLARATION OF PURPOSE OF ACT APRIL 9, 1948

Act Apr. 9, 1948, ch. 180, § 1, 62 Stat. 163, which set out the congressional declaration of purpose of act Apr. 9, 1948, was repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1466.

SEPARABILITY OF PROVISIONS

Act Apr. 9, 1948, ch. 180, § 4, 62 Stat. 163, which set out the separability clause of act Apr. 9, 1948, was repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1466.

§ 20c. Recordation of railroad equipment trust agreements and other evidences of equipment indebtedness

REPEAL OF SECTION

Section repealed (except as affected by amendments after May 15, 1978) by Pub. L. 95–473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

AMENDMENT OF SECTION SUBSEQUENT TO REPEAL

Pub. L. 95–598, title III, § 337(a), title IV, § 402(a) Nov. 6, 1978, 92 Stat. 2680, 2682, amended this section effective Oct. 1, 1979, by substituting "a case under title 11" for "bankruptcy" subsequent to the repeal of this section by Pub. L. 95–473. As so amended, this section reads as follows:

Any mortgage, lease, equipment trust agreement, conditional sale agreement, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of railroad cars, locomotives, or other rolling stock, used or intended for use in connection with interstate commerce, or any assignment of rights or interest under any such instrument, or any supplement or amendment to any such instrument or assignment (including any release, discharge or satisfaction thereof, in whole or in part), may be filed with the Commission, provided such instrument, assignment, supplement or amendment is in writing, executed by the parties thereto, and acknowledged or verified in accordance with such requirements as the Commission shall prescribe; and any such instrument or other document, when so filed with the Commission, shall constitute notice to and shall be valid and enforceable against all persons including, without limitation, any purchaser from, or mortgagee, creditor, receiver, or trustee in a case under title 11 of, the mortgagor, buyer, lessee or bailee of the equipment covered thereby, from and after the time such instrument or other document is so filed with the Commission; and such instrument or other document need not be otherwise filed, deposited, registered or recorded under the provisions of any other law of the United States of America, or of any State (or political subdivision thereof), territory, district or possession thereof, respecting the filing, deposit, registration or recordation of such instruments or documents. The Commission shall establish and maintain a system for the recordation of each such instrument or document, filed pursuant to the provisions of this section, and shall cause to be

marked or stamped thereon, a consecutive number, as well as the date and hour of such recordation, and shall maintain, open to public inspection, an index of all such instruments or documents, including any assignment, amendment, release, discharge or satisfaction thereof, and shall record, in such index the names and addresses of the principal debtors, trustees, guarantors and other parties thereto, as well as such other facts as may be necessary to facilitate the determination of the rights of the parties to such transactions.

§§ 21 to 23

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95-473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 26. Safety appliances, methods, and systems

[*See main edition for text of* (a) *to* (c)]

(d) Inspection by Secretary of Transportation; personnel

The Secretary of Transportation is authorized to inspect and test any systems, devices, and appliances referred to in this section used by any such carrier and to determine whether such systems, devices, and appliances are in proper condition to operate and provide adequate safety. For these purposes the Secretary is authorized to employ persons familiar with the subject. Such persons shall be in the classified service and shall be appointed after competitive examination according to the law and the rules of the Director of the Office of Personnel Management governing the classified service. No person interested, either directly or indirectly, in any patented article required to be used on or in connection with any of such systems, devices, and appliances or who has any financial interest in any carrier or in any concern dealing in railway supplies shall be used for such purpose.

[*See main edition for text of* (e) *and* (f)]

(g) Duties and powers of Secretary of Transportation

It shall be the duty of the Secretary of Transportation to see that the requirements of this section and the orders, rules, regulations, standards, and instructions made, prescribed, or approved hereunder are observed by carriers, and all powers granted prior to August 26, 1937, to the Commission are extended to the Secretary of Transportation in the execution of this section.

(h) Penalties; enforcement

Any carrier which violates any provision of this section, or which fails to comply with any of the orders, rules, regulations, standards, or instructions made, prescribed, or approved hereunder shall be liable to a penalty of not less than $250 and not more than $2,500 for each such violation and not less than $250 and not more than $2,500 for each and every day such violation, refusal, or neglect continues, to be assessed by the Secretary of Transportation and recovered in a suit or suits to be brought by the United States attorney in the district court of the United States having jurisdiction in the locality where such violations shall have been committed. It shall be the duty of such attorneys to bring such suits upon duly verified information being lodged with them showing such violations having occurred; and it shall be the duty of the Secretary of Transportation to lodge with the proper United States attorneys information of any violations of this section coming to its knowledge.

(As amended Nov. 2, 1978, Pub. L. 95-574, § 7(d), 92 Stat. 2461; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

CODIFICATION

Subsec. (g) is set out in this supplement to correct an error in the main edition.

AMENDMENTS

1978—Subsec. (h). Pub. L. 95-574 provided that penalties under this section be assessed by the Secretary of Transportation.

TRANSFER OF FUNCTIONS

"Director of the Office of Personnel Management" was substituted for "Civil Service Commission" pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in the United States Civil Service Commission to the Director of the Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§ 26a

REPEAL OF SECTION

Section repealed by Pub. L. 95-473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 26b. Office of Rail Public Counsel

REPEAL OF SECTION

Section repealed (except as affected by amendments after May 15, 1978) by Pub. L. 95-473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

AMENDMENT OF SECTION SUBSEQUENT TO REPEAL

Pub. L. 95-620, title VIII, § 804, title IX, § 901, Nov. 9, 1978, 92 Stat. 3348, 3349, amended par. (4) of this section, effective 180 days after Nov. 9, 1978, by striking "and" at the end of subpar. (d), substituting "and" for the period at the end of subpar. (e), and adding subpar. (f) to read as follows:

(4) Additional duties and responsibilities of Office

In addition to any other duties and responsibilities prescribed by law, the Office of Rail Public Counsel—

* * * * *

(f) shall present the views of users, as well as the views of the general public and affected communities, and, where appropriate, providers of rail services in proceedings of Federal agencies concerning—

(1) the impact of energy proposals and actions on rail transportation, and

(2) whether transportation policies are consistent with National energy policies.

* * * * *

§ 26c

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95–473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 27

REPEAL OF SECTION

Section repealed (except as affected by amendments after May 15, 1978) by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1466, 1470. See table at beginning of this title and notes preceding chapter 101 of this title.

CHAPTER 2—LEGISLATION SUPPLEMENTARY TO "INTERSTATE COMMERCE ACT"

§ 41

REPEAL OF SECTION

Section repealed by Pub. L. 95–473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 42

REPEAL OF SECTION

Section repealed by Pub. L. 95–473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 43

REPEAL OF SECTION

Section repealed by Pub. L. 95–473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 46

REPEAL OF SECTION

Section repealed by Pub. L. 95–473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

§§ 50 to 52

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95–473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 53. Omitted

CODIFICATION

Section, act Feb. 17, 1917, ch. 84, 39 Stat. 922, prohibiting the Commission or the courts from construing the Interstate Commerce Act as prohibiting the lessee of the Cincinnati Southern Railway from furnishing certain free transportation, was omitted from the Code as being of limited interest.

§ 55

REPEAL OF SECTION

Section repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1466, 1470. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 57

REPEAL OF SECTION

Section repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

§§ 59, 60

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

§§ 65, 65a

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95–473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 66. Transferred

CODIFICATION

Section, acts Sept. 18, 1940, ch. 722, title III, § 322, 54 Stat. 955; Aug 26, 1958, Pub. L. 85–762, § 2, 72 Stat. 860; Oct. 25, 1972, Pub. L. 92-550, § 1, 86 Stat. 1163; Jan. 2, 1975, Pub. L. 93–604, title III, § 201, 88 Stat. 1960, relating to the payment for transportation of persons or property for or on behalf of the United States by any carrier or forwarder, was transferred to section 244 of Title 31, Money and Finance.

CHAPTER 3—TERMINATION OF FEDERAL CONTROL

§§ 71 to 79

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

CHAPTER 5—INLAND WATERWAYS TRANSPORTATION

SUBCHAPTER I—GENERALLY

§ 142. Transferred

CODIFICATION

Section, act Feb. 28, 1920, ch. 91, § 500, 41 Stat. 499; 1939 Reorg. Plan No. II, § 6, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, relating to a policy of development of water transportation, was transferred to section 1528 of Title 15, Commerce and Trade.

§ 143

REPEAL OF SECTION

Section repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

CHAPTER 7—COORDINATION OF INTERSTATE RAILROAD TRANSPORTATION

§§ 250, 251

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

§§ 253 to 263

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

§§ 264a to 268

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

CHAPTER 8—INTERSTATE COMMERCE ACT, PART II; MOTOR CARRIERS

NATIONAL TRANSPORTATION POLICY

Act Sept. 18, 1940, ch. 722, title I, § 1, 54 Stat. 899, which amended the Interstate Commerce Act, act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, by inserting provisions relating to the national transportation policy, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466, and reenacted by the first section thereof as section 10101 of this title.

§§ 301, 302

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 303. Definitions and exceptions

PARTIAL REPEAL OF SECTION

Section (other than subsec. (a)(22) and (23)) repealed (except as affected by amendments after May 15, 1978) by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

AMENDMENT OF SECTION SUBSEQUENT TO REPEAL

Pub. L. 95-599, title I, § 126(c), Nov. 6, 1978, 92 Stat. 2706, amended subsec. (b)(7a) of this section, subsequent to the repeal of this section by Pub. L. 95-473, by inserting after "aircraft" a semicolon and the following: "or (7b) vehicles carrying up to fifteen persons in a single daily roundtrip for the purpose of commuting to and from work;".

TRANSPORTATION OF AGRICULTURAL COMMODITIES BY PERSONS HOLDING CERTIFICATES OR PERMITS ON AUGUST 12, 1958, OR UNDER CERTIFICATES OR PERMITS ISSUED PURSUANT TO APPLICATIONS FILED ON OR BEFORE AUGUST 12, 1958

Section 7(b) of Pub. L. 85-625, relating to authority to transport agricultural commodities after Aug. 12, 1958, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466.

ISSUANCE OF CERTIFICATES OR PERMITS TO PERSONS TRANSPORTING CERTAIN AGRICULTURAL COMMODITIES ON MAY 1, 1958

Section 7(c) of Pub. L. 85-625, relating to issuance of certificates or permits to persons transporting certain agricultural commodities on May 1, 1958, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466.

§ 304. Powers and duties of Commission

PARTIAL REPEAL OF SECTION

Section (other than subsec. (a)(1) and (2) related to qualifications, maximum hours, and safety, and subsec. (a)(3), (3a), and (5)) repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Interstate Commerce Commission and the Chairman, members, offices, and officers thereof under subsecs. (a)(3), (a)(3a), (a)(5), and, to the extent that they relate to qualifications and maximum hours of service of employees and safety of operation and equipment, under subsecs. (a)(1) and (a)(2) were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(e)(6)(C), Oct. 15, 1966, 80 Stat. 939, which created the Department of Transportation. See section 1655(e)(6)(C) of this title.

§§ 304a, 305

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 305a. Transferred

CODIFICATION

Section, based on a recurring item in annual appropriation acts, which authorizes Joint Board members to use government transportation requests when traveling in connection with their official duties, is now set out as a note under section 10344 of this title.

§§ 306 to 312

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 313. Validity and perfection of certain security interests in motor vehicles

REPEAL OF SECTION

Section repealed (except as affected by amendments after May 15, 1978) by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

AMENDMENT OF SECTION SUBSEQUENT TO REPEAL

Pub. L. 95-598, title III, § 337(b), title IV, § 402(a), Nov. 6, 1978, 92 Stat. 2681, 2682, amended subsec. (a)(3) of this section effective Oct. 1, 1979, by substituting "a case under title 11 from" and "such case" for "bankruptcy from" and "bankruptcy", respectively. As so amended, subsec. (a)(3) of this section reads as follows:

(a) Definitions

As used in this section the term—

* * * * *

(3) "lien creditor" means a creditor who has acquired a lien on the motor vehicle involved by attachment, levy, or the like, and includes an assignee for benefit of creditors from the time of assignment, a trustee in a case under title 11 from the date of the filing of the petition in such case, and a receiver in equity from the time of his appointment.

* * * * *

§§ 314 to 319

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 320. Accounts, records, and reports

PARTIAL REPEAL OF SECTION

Section (other than subsec. (f)) was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at the beginning of this title and notes preceding chapter 101 of this title.

§§ 321 to 324a

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 325. Investigation of motor vehicle sizes and weights and qualifications and hours of service of employees

EXPEDITION OF INVESTIGATION

Section 27 of act Sept. 18, 1940, relating to expedition of the investigation by the Interstate Commerce Commission regarding Federal regulation of size and weight of motor vehicles, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466.

§§ 325a to 327

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

CHAPTER 11—SEIZURE AND FORFEITURE OF CARRIERS TRANSPORTING, ETC., CONTRABAND ARTICLES

§ 781. Unlawful use of vessels, vehicles, and aircrafts; contraband article defined

[*See main edition for text of* (a)]

(b) As used in this section, the term "contraband article" means—

[*See main edition for text of* (1)]

(2) Any firearm, with respect to which there has been committed any violation of any provision of the National Firearms Act or any regulation issued pursuant thereto;

(3) Any falsely made, forged, altered, or counterfeit coin or obligation or other security of the United States or of any foreign government; or any material or apparatus, or paraphernalia fitted or intended to be used, or which shall have been used, in the making of any such falsely made, forged, altered, or counterfeit coin or obligation or other security; or

(4) Any cigarette, with respect to which there has been committed any violation of chapter 114 of title 18, or any regulation issued pursuant thereto.

(As amended Nov. 2, 1978, Pub. L. 95-575, § 3(a), 92 Stat. 2465.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-575 added par. (4).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-575 effective Nov. 2, 1978, see section 4 of Pub. L. 95-575, set out as an Effective Date note under section 2341 of Title 18, Crimes and Criminal Procedure.

§ 787. Definitions

When used in this chapter—

[*See main edition for text of* (a) *to* (d)]

(e) The term "firearm" means any firearm, as now or hereafter defined by the National Firearms Act or the regulations issued thereunder;

(f) The words "obligation or other security of the United States" are used as now or hereafter defined in section 8 of title 18; and

(g) The term "cigarettes" means "contraband cigarettes" as now or hereafter defined in section 2341 of title 18.

(As amended Nov. 2, 1978, Pub. L. 95-575, § 3(b), 92 Stat. 2465.)

AMENDMENTS

1978—Subsec. (g). Pub. L. 95-575 added subsec. (g).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-575 effective Nov. 2, 1978, see section 4 of Pub. L. 95-575, set out as an Effective Date note under section 2341 of Title 18, Crimes and Criminal Procedure.

CHAPTER 12—INTERSTATE COMMERCE ACT, PART III; WATER CARRIERS

NATIONAL TRANSPORTATION POLICY

Act Sept. 18, 1940, ch. 722, title I, § 1, 54 Stat. 899, which amended the Interstate Commerce Act, act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, by inserting provisions relating to the national transportation policy, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466, and reenacted by the first section thereof as section 10101 of this title.

§§ 901, 902

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 903

REPEAL OF SECTION

Section repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

IMPLEMENTATION OF RECOMMENDATIONS OF SECRETARY OF TRANSPORTATION FOR REPEAL OF THREE COMMODITY RESTRICTION AND NO-MIXING RULE

Pub. L. 93-201, § 2, Dec. 27, 1973, 87 Stat. 838, repealing Pub. L. 91-590, §§ 2, 3, Dec. 28, 1970, 84 Stat. 1587, which limited the duration of the amendment of subsec. (b) of section 903 of this title by section 1 of Pub. L. 91-590 to three years, which required the Secretary of Transportation to undertake a study of the system of economic regulation of dry bulk commodity transportation and report to Congress with recommendations for legislation, and which required water carriers operating under the exemption under subsec. (b) of section 903 of this title to file such reports containing such information as the Secretary of Transportation required in the conduct of the study, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466.

§§ 904 to 919

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95-473, § 4(b), (c), Oct. 17, 1978, 92 Stat. 1466, 1470, subject to an exception related to transportation of oil by pipeline. See table at beginning of this title and notes preceding chapter 101 of this title.

§§ 920 to 922

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466, 1470. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 922a. Recording of evidences of equipment indebtedness

REPEAL OF SECTION

Section repealed (except as affected by amendments after May 15, 1978) by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

AMENDMENT OF SECTION SUBSEQUENT TO REPEAL

Pub. L. 95-598, title III, § 337(c), title IV, § 402(a), Nov. 6, 1978, 92 Stat. 2681, 2682, amended this section effective Oct. 1, 1979, by substituting "a case under title 11" for "bankruptcy". As so amended this section reads as follows:

Any mortgage (except mortgages under the Ship Mortgage Act, 1920, as amended [46 U.S.C. 911 et seq.]), lease, equipment trust agreement, conditional sale agreement, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of one or more vessels, used or intended for use by a carrier subject to this chapter in interstate commerce or any assignment of rights or interest under any such instrument, or any supplement or amendment to any such instrument or assignment (including any release, discharge, or satisfaction thereof, in whole or in part), may be filed with the Commission, provided such instrument, assignment, supplement, or amendment is in writing, executed by the parties thereto, and acknowledged or verified in accordance with such requirements as the Commission shall prescribe; and any such instrument or other document, when so filed with the Commission, shall constitute notice to and shall be valid and enforceable against all persons including, without limitation, any purchaser from, or mortgagee, creditor, receiver, or trustee in a case under title 11 of, the mortgagor, buyer, lessee, or bailee, of the vessel covered thereby, from and after the time such instrument or other document is so filed with the Commission; and such instrument or other document need not be otherwise filed, deposited, registered, or recorded under the provisions of any other law of the United States of America, or of any State (or political subdivision thereof), territory, district, or possession thereof, respecting the filing, deposit, registration, or recordation of such instruments or documents: Provided, however, That nothing contained in this section shall, in any way, be construed to alter or amend the Ship Mortgage Act, 1920, as amended. The Commission shall establish and maintain a system for the recordation of each such instrument or document, filed pursuant to the provisions of this section, and shall cause to be marked or stamped thereon, a consecutive number, as well as the date and hour of such recordation, and shall maintain, open to public inspection, an index of all such instruments or documents, including any assignment, amendment, release, discharge, or satisfaction thereof, and shall record, in such index the names and addresses of the principal debtors, trustees, guarantors and other parties thereto,

as well as such other facts as may be necessary to facilitate the determination of the rights of the parties to such transactions.

§§ 922b, 923

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

CHAPTER 13—INTERSTATE COMMERCE ACT, PART IV; FREIGHT FORWARDERS

NATIONAL TRANSPORTATION POLICY

Act Sept. 18, 1940, ch. 722, title I, § 1, 54 Stat. 899, which amended the Interstate Commerce Act, act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, by inserting provisions relating to the national transportation policy, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466, and reenacted by the first section thereof as section 10101 of this title.

§§ 1001 to 1019

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

§ 1020

REPEAL OF SECTION

Section repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

REPEAL OF PROVISIONS CONTINUING SECTION UNTIL TERMINATION OF DECEMBER 16, 1950 NATIONAL EMERGENCY AND SIX MONTHS; PRIOR CONTINUATIONS

Act July 3, 1952, ch. 570, § 1(a)(26), 66 Stat. 332, as amended Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, and act June 30, 1953, ch. 165, 67 Stat. 115, directing that the provisions of section 1020 of this title remain in full force and effect at first until July 1, 1953, and later until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950, were repealed by Pub. L. 95-473, § 4 (b), (d), Oct. 17, 1978, 92 Stat. 1466, 1470, eff. Sept. 14, 1978.

§§ 1021, 1022

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

CHAPTER 15—INTERNATIONAL AVIATION FACILITIES

§§ 1159a, 1159b

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

CHAPTER 19—INTERSTATE COMMERCE ACT, PART V; LOAN GUARANTEES

NATIONAL TRANSPORTATION POLICY

Act Sept. 18, 1940, ch. 722, title I, § 1, 54 Stat. 899, which amended the Interstate Commerce Act, act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, by inserting provisions relating to the national transportation policy, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466, and reenacted by the first section thereof as section 10101 of this title.

§ 1231

REPEAL OF SECTION

Section repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

SHORT TITLE OF 1958 AMENDMENT

Section 1 of Pub. L. 85-625, which provided that Pub. L. 85-625 was to be cited as the Transportation Act of 1958, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466.

§§ 1232 to 1240

REPEAL OF SECTIONS

Sections repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. See table at beginning of this title and notes preceding chapter 101 of this title.

CHAPTER 20—FEDERAL AVIATION PROGRAM

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
1305. Federal preemption [New].
(a) Preemption.
(b) Proprietary powers and rights.
(c) Existing State authority.
(d) Definition.
1306. Omitted.
1307. Safety study [New].
(a) Policy.
(b) Report.
(c) Recommendations.
(d) Regulations and inspection procedures.
1308. Omitted.

SUBCHAPTER IV—AIR CARRIER ECONOMIC REGULATION

1388. Certificate for all-cargo air service [New].
(a) Application.
(b) Issuance and revocation of certificate.
(c) Exemptions.
(d) Air carrier status.
1389. Small community air service [New].
(a) Guaranteed essential air transportation.
(b) Other air service.
(c) Level of safety.
(d) Guidelines for compensation.
(e) Insurance.
(f) Definition.
(g) Duration of program.

SUBCHAPTER X—PROCEDURE

1482a. Uniform method of establishment of joint fares [New].
1490. Time requirements [New].

SUBCHAPTER XI—MISCELLANEOUS

1518. Transportation of government-financed passengers and property by non-certified air carriers [New].

SUBCHAPTER XIV—CHANGES IN REGULATORY STRUCTURE [NEW]

Sec.
1551. Termination of Civil Aeronautics Board and transfer of certain functions.
(a) Termination of authority.
(b) Transfer of certain authority.
(c) Report and assessment by Board.
(d) Elements of Board consideration.
(e) Elements for each comprehensive review.
1552. Employee protection program.
(a) General rule.
(b) Monthly assistance computation.
(c) Assistance for relocation.
(d) Duty to hire protected employees.
(e) Period of monthly assistance payments.
(f) Rules and regulations.
(g) Airline employees protective account.
(h) Definitions.
(i) Transfer of authority of Board.
(j) Termination.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1356a, 1482a, 1653, 1701, 1714, 1742, 10561, 10749 of this title; title 7 section 136q; title 11 section 1110; title 14 section 82; title 15 sections 45, 1607, 1681s, 1691c, 1692*l*, 1693o; title 26 section 47; title 39 sections 5401, 5402; title 42 section 7572.

SUBCHAPTER I—GENERAL PROVISIONS

§ 1301. Definitions

As used in this chapter, unless the context otherwise requires—

[*See main edition for text of (1) to (10)*]

(11) "All-cargo air service" means—

(A) the carriage by aircraft of only (i) property as a common carrier for compensation or hire, or (ii) mail, or both, in commerce between a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the airspace over any place outside thereof; or between places in the same territory or possession of the United States, or the District of Columbia;

(B) the carriage by aircraft of only (i) property as a common carrier for compensation or hire, or (ii) mail, or both, in commerce between a place in any State of the United States or the District of Columbia and any place in the Commonwealth of Puerto Rico or the Virgin Islands or between a place in the Commonwealth of Puerto Rico and a place in the Virgin Islands;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(12) "Appliances" means instruments, equipment, apparatus, parts, appurtenances, or accessories, of whatever description, which are used, or are capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including parachutes and including communication equipment and any other mechanism or mechanisms installed in or attached to aircraft during flight), and which are not a part or parts of aircraft, aircraft engines, or propellers.

(13) "Board" means the Civil Aeronautics Board.

(14) "Charter air carrier" means an air carrier holding a certificate of public convenience and necessity authorizing it to engage in charter air transportation.

(15) "Charter air transportation" means charter trips, including inclusive tour charter trips, in air transportation, rendered pursuant to authority conferred under this chapter under regulations prescribed by the Board.

(16) "Citizen of the United States" means (a) an individual who is a citizen of the United States or of one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or association created or organized under the laws of the United States or of any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

(17) "Civil aircraft" means any aircraft other than a public aircraft.

(18) "Civil aircraft of the United States" means any aircraft registered as provided in this chapter.

(19) "Conditional sale" means (a) any contract for the sale of an aircraft, aircraft engine, propeller, appliance, or spare part under which possession is delivered to the buyer and the property is to vest in the buyer at a subsequent time, upon the payment of part or all of the price, or upon the performance of any other condition or the happening of any contingency; or (b) any contract for the bailment or leasing of an aircraft, aircraft engine, propeller, appliance, or spare part, by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to the value thereof, and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner thereof upon full compliance with the terms of the contract. The buyer, bailee, or lessee shall be deemed to be the person by whom any such contract is made or given.

(20) "Conveyance" means a bill of sale, contract of conditional sale, mortgage, assignment of mortgage, or other instrument affecting title to, or interest in, property.

(21) "Federal airway" means a portion of the navigable airspace of the United States designated by the Secretary of Transportation as a Federal airway.

(22) "Foreign air carrier" means any person, not a citizen of the United States, who undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in foreign air transportation.

(23) "Interstate air commerce", "overseas air commerce", and "foreign air commerce", respectively, mean the carriage by aircraft of persons or property for compensation or hire, or the carriage of mail by aircraft, or the operation or navigation of aircraft in the conduct or

furtherance of a business or vocation, in commerce between, respectively—

(a) a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the airspace over any place outside thereof; or between places in the same Territory or possession of the United States, or the District of Columbia;

(b) a place in any State of the United States, or the District of Columbia, and any place in a Territory or possession of the United States; or between a place in a Territory or possession of the United States, and a place in any other Territory or possession of the United States; and

(c) a place in the United States and any place outside thereof;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(24) "Interstate air transportation", "overseas air transportation", and "foreign air transportation", respectively, mean the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft, in commerce between, respectively—

(a) a place in any State of the United States, or the District of Columbia, and any place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the airspace over any place outside thereof; or between places in the same Territory or possession of the United States, or the District of Columbia;

(b) a place in any State of the United States, or the District of Columbia, and any place in a Territory or possession of the United States; or between a place in a Territory or possession of the United States, and a place in any other Territory or possession of the United States; and

(c) a place in the United States and any place outside thereof;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(25) "Intrastate air carrier" means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage solely in intrastate air transportation.

(26) "Intrastate air transportation" means the carriage of persons or property as a common carrier for compensation or hire, by turbojet-powered aircraft capable of carrying thirty or more persons, wholly within the same State of the United States.

(27) "Landing area" means any locality, either of land or water, including airports and intermediate landing fields, which is used, or intended to be used, for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

(28) "Mail" means United States mail and foreign-transit mail.

(29) "Navigable airspace" means airspace above the minimum altitudes of flight prescribed by regulations issued under this chapter, and shall include airspace needed to insure safety in take-off and landing of aircraft.

(30) "Navigation of aircraft" or "navigate aircraft" includes the piloting of aircraft.

(31) "Operation of aircraft" or "operate aircraft" means the use of aircraft, for the purpose of air navigation and includes the navigation of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of this chapter.

(32) "Person" means any individual, firm, copartnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

(33) "Propeller" includes all parts, appurtenances, and accessories thereof.

(34) "Possessions of the United States" means (a) the Canal Zone, but nothing herein shall impair or affect the jurisdiction which has heretofore been, or may hereafter be, granted to the President in respect of air navigation in the Canal Zone; and (b) all other possessions of the United States. Where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, references in this chapter to possessions of the United States shall be treated as also referring to the Commonwealth of Puerto Rico.

(35) "Predatory" means any practice which would constitute a violation of the antitrust laws as set forth in section 12 of title 15.

(36) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of any State, Territory, or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes.

(37) "Spare parts" means parts, appurtenances, and accessories of aircraft (other than aircraft engines and propellers), of aircraft engines (other than propellers), of propellers and of appliances, maintained for installation or use in an aircraft, aircraft engine, propeller, or appliance, but which at the time are not installed therein or attached thereto.

(38) The term "special aircraft jurisdiction of the United States" includes—

(a) civil aircraft of the United States;

(b) aircraft of the national defense forces of the United States;

(c) any other aircraft within the United States;

(d) any other aircraft outside the United States—

(i) that has its next scheduled destination or last point of departure in the United States, if that aircraft next actually lands in the United States; or

(ii) having "an offense", as defined in the Convention for the Suppression of Unlaw-

ful Seizure of Aircraft, committed aboard, if that aircraft lands in the United States with the alleged offender still aboard; and

(e) other aircraft leased without crew to a lessee who has his principal place of business in the United States, or if none, who has his permanent residence in the United States;

while that aircraft is in flight, which is from the moment when all external doors are closed following embarkation until the moment when one such door is opened for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the aircraft and for the persons and property aboard.

(39) "State agency" means that department, agency, officer, or other entity of a State government which has been designated according to State law as—

(A) the recipient of any notice required under subchapter of this chapter to be given to a State agency; or

(B) the representative of the State in any matter about which the Board is required, under such subchapter IV of this chapter, to consult with or consider the views of a State agency.

(40) "Ticket agent" means any person, not an air carrier or a foreign air carrier and not a bona fide employee of an air carrier or foreign air carrier, who, as principal or agent, sells or offers for sale any air transportation, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts or arranges for, such transportation.

(41) "United States" means the several States, the District of Columbia, and the several Territories and possessions of the United States, including the territorial waters and the overlying airspace thereof.

(As amended Pub. L. 95-163, § 17(b), Nov. 9, 1977, 91 Stat. 1286; Pub. L. 95-504, § 2, Oct. 24, 1978, 92 Stat. 1705.)

REFERENCES IN TEXT

This chapter, referred to in text preceding par. (1) and pars. (3), (15), (18), (29), (31), (34), read in the original, "this Act", meaning Pub. L. 85-726, Aug. 23, 1958, 72 Stat. 731, known as the Federal Aviation Act of 1958. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

AMENDMENTS

1978—Pars. (14), (15). Pub. L. 95-504, § 2(a)(1), added pars. (14) and (15). Former pars. (14) and (15) renumbered (16) and (17), respectively.

Pars. (16), (17). Pub. L. 95-504, § 2(b), renumbered former pars. (14) and (15) as (16) and (17), respectively. Former pars. (16) and (17) renumbered (18) and (19), respectively.

Pars. (18) to (32). Pub. L. 95-504, § 2(b), renumbered former pars. (16) to (30) as (18) to (32).

Par. (33). Pub. L. 95-504, § 2(b), renumbered former par. (31) as (33). Former par. (33) renumbered (36). Another Par. (33), enacted by section 2(a)(2) of Pub. L. 95-504, renumbered (35).

Par. (34). Pub. L. 95-504, § 2(b), renumbered former par. (32) as (34). Former par. (34) renumbered (37).

Par. (35). Pub. L. 95-504, § 2(b), renumbered par. (33), as added by section 2(a)(2) of Pub. L. 95-504, as par. (35). Former par. (35) renumbered (38).

Par. (36). Pub. L. 95-504, § 2(b), renumbered former par. (33) as (36). Former par. (36), defining supplemental air carriers, was struck out by Pub. L. 95-504, § 2(a)(4). Another Par. (36), enacted by section 2(a)(3) of Pub. L. 95-504, renumbered (39).

Par. (37). Pub. L. 95-504, § 2(b), renumbered former par. (34) as (37). Former par. (37), defining supplemental air transportation, was struck out by section 2(a)(4) of Pub. L. 95-504.

Par. (38). Pub. L. 95-504, § 2(b), renumbered former par. (35) as (38). Former par. (38) renumbered (40).

Par. (39). Pub. L. 95-504, § 2(b), renumbered par. (36), as added by section 2(a)(3) of Pub. L. 95-504, as par. (39). Former par. (39) renumbered (41).

Pars. (40), (41). Pub. L. 95-504, § 2(b), renumbered former pars. (38) and (39) as (40) and (41), respectively.

1977—Par. (11). Pub. L. 95-163, § 17(b)(2), added par. (11). Former par. (11) was renumbered (12).

Pars. (12) to (39). Pub. L. 95-163, § 17(b)(1), renumbered former pars. (11) to (38) as (12) to (39), respectively.

SHORT TITLE OF 1978 AMENDMENT

Section 1 of Pub. L. 95-504 provided that: "This Act [enacting sections 1305 to 1308, 1389, 1482a, 1490, 1551, and 1552 of this title, amending sections 1301, 1302, 1371 to 1374, 1376, 1378, 1379, 1382, 1384, 1386, 1461, 1471, 1473, 1482, 1504, 1711, and 1729 of this title, enacting provisions set out as notes under sections 1301, 1341, and 1371 of this title, and amending provisions set out as notes under sections 1324 and 1376 of this title] may be cited as the "Airline Deregulation Act of 1978'."

SAVINGS CLAUSE; EFFECT OF AMENDMENTS AND REPEALS

Section 47 of Pub. L. 95-504, provided that: "All orders, determinations, rules, regulations, permits, contracts, certificates, rates, and privileges which have been issued, made, or granted, or allowed to become effective, by the President, the Civil Aeronautics Board, or the Postmaster General, or any court of competent jurisdiction, under any provision of law repealed or amended by this Act [see Short Title of 1978 Amendment note set out above], or in the exercise of duties, powers, or functions, which are vested in the Board, and which are in effect at the time this Act takes effect [Oct. 24, 1978] shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Board, or by any court of competent jurisdiction, or by operation of law."

TRANSFER OF FUNCTIONS

The enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder with respect to pre-construction, construction, and initial operation of an approved transportation system for Canadian and Alaskan natural gas were transferred to the Federal Inspector of the Office of the Federal Inspector of the Alaska Natural Gas Transportation System until the first anniversary of the date of the initial operation of the Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(c), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

REFERENCE TO SUPPLEMENTAL AIR CARRIER OR SUPPLEMENTAL AIR TRANSPORTATION AS DEEMED REFERENCE TO CHARTER AIR CARRIER OR CHARTER AIR TRANSPORTATION, RESPECTIVELY

Section 46 of Pub. L. 95-504, provided that: "Any reference in any law, rule, regulation, or document of the United States to a supplemental air carrier or supplemental air transportation shall be deemed to be a reference to a charter air carrier or charter air transportation, respectively."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1729, 1807 of this title; title 11 section 1110; title 15 section 2052; title 18 sections 112, 878, 1116, 1201; title 26 section 4492; title 42 sections 4902, 7574.

§ 1302. Consideration of matters in public interest by Board

(a) General factors for consideration

In the exercise and performance of its powers and duties under this chapter with respect to interstate and overseas air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

(1) The assignment and maintenance of safety as the highest priority in air commerce, and prior to the authorization of new air transportation services, full evaluation of the recommendations of the Secretary of Transportation on the safety implications of such new services and full evaluation of any report or recommendation submitted under section 1307 of this title.

(2) The prevention of any deterioration in established safety procedures, recognizing the clear intent, encouragement, and dedication of the Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public.

(3) The availability of a variety of adequate, economic, efficient, and low-price services by air carriers without unjust discriminations, undue preferences or advantages, or unfair or deceptive practices, the need to improve relations among, and coordinate transportation by, air carriers, and the need to encourage fair wages and equitable working conditions.

(4) The placement of maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital.

(5) The development and maintenance of a sound regulatory environment which is responsive to the needs of the public and in which decisions are reached promptly in order to facilitate adaption of the air transportation system to the present and future needs of the domestic and foreign commerce of the United States, the Postal Service, and the national defense.

(6) The encouragement of air service at major urban areas through secondary or satellite airports, where consistent with regional airport plans of regional and local authorities, and when such encouragement is endorsed by appropriate State entities encouraging such service by air carriers whose sole responsibility in any specific market is to provide service exclusively at the secondary or satellite airport, and fostering an environment which reasonably enables such carriers to establish themselves and to develop their secondary or satellite airport services.

(7) The prevention of unfair, deceptive, predatory, or anti-competitive practices in air transportation, and the avoidance of—

(A) unreasonable industry concentration, excessive market domination, and monopoly power; and

(B) other conditions;

that would tend to allow one or more air carriers unreasonably to increase prices, reduce services, or exclude competition in air transportation.

(8) The maintenance of a comprehensive and convenient system of continuous scheduled airline service for small communities and for isolated areas, with direct Federal assistance where appropriate.

(9) The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services.

(10) The encouragement of entry into air transportation markets by new air carriers, the encouragement of entry into additional air transportation markets by existing air carriers, and the continued strengthening of small air carriers so as to assure a more effective, competitive airline industry.

(b) Factors for all-cargo air service

In addition to the declaration of policy set forth in subsection (a) of this section, the Board, in the exercise and performance of its powers and duties under this chapter with respect to all-cargo air service shall consider the following, among other things, as being in the public interest:

(1) The encouragement and development of an expedited all-cargo air service system, provided by private enterprise, responsive to (A) the present and future needs of shippers, (B) the commerce of the United States, and (C) the national defense.

(2) The encouragement and development of an integrated transportation system relying upon competitive market forces to determine the extent, variety, quality, and price of such services.

(3) The provision of services without unjust discriminations, undue preferences or advantages, unfair or deceptive practices, or predatory pricing.

(c) Factors for foreign air transportation

In the exercise and performance of its powers and duties under this chapter with respect to foreign air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

(1) The encouragement and development of an air transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.

(2) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, assure the highest degree of safety in, and foster sound economic conditions in, such transportation, and to improve the relations between and coordinate transportation by air carriers.

(3) The promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices.

(4) Competition to the extent necessary to assure the sound development of an air transportation system properly adapted to the needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.

(5) The promotion of safety in air commerce.

(6) The promotion, encouragement, and development of civil aeronautics.

(As amended Pub. L. 95-163, § 16(b), Nov. 9, 1977, 91 Stat. 1284; Pub. L. 95-504, § 3(a), (b), Oct. 24, 1978, 92 Stat. 1705, 1707.)

REFERENCES IN TEXT

This chapter, referred to in text, read in the original, "this Act", meaning Pub. L. 85-726, Aug. 23, 1958, 72 Stat. 731, known as the Federal Aviation Act of 1958. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-504, § 3(a), completely revised and restructured subsection, and as so restructured, added provisions relating to interstate and overseas air transportation, prevention of deterioration in safety procedures, development of a regulatory environment, prevention of anticompetitive practices, maintenance of continuous scheduled airline service for small communities, and encouragement of market participation by new carriers.

Subsec. (c). Pub. L. 95-504, § 3(b), added subsec. (c).

1977—Pub. L. 95-163 redesignated existing undesignated provisions as subsec. (a) and existing cls. (a) to (f) thereof as cls. (1) to (6), and added subsec. (b).

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1371, 1482 of this title; title 39 section 5402.

§ 1303. Consideration of matters in public interest by Secretary of Transportation

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

§ 1305. Federal preemption

(a) Preemption

(1) Except as provided in paragraph (2) of this subsection, no State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to rates, routes, or services of any air carrier having authority under subchapter IV of this chapter to provide interstate air transportation.

(2) Except with respect to air transportation (other than charter air transportation) provided pursuant to a certificate issued by the Board under section 1371 of this title, the provisions of paragraph (1) of this subsection shall not apply to any transportation by air of persons, property, or mail conducted wholly within the State of Alaska.

(b) Proprietary powers and rights

(1) Nothing in subsection (a) of this section shall be construed to limit the authority of any State or political subdivision thereof or any interstate agency or other political agency of two or more States as the owner or operator of an airport served by any air carrier certificated by the Board to exercise its proprietary powers and rights.

(2) Any aircraft operated between points in the same State (other than the State of Hawaii) which in the course of such operation crosses a boundary between two States, or between the United States and any other country, or between a State and the beginning of the territorial waters of the United States, shall not, by reason of crossing such boundary, be considered to be operating in interstate or overseas air transportation.

(c) Existing State authority

When any intrastate air carrier which on August 1, 1977, was operating primarily in intrastate air transportation regulated by a State receives the authority to provide interstate air transportation, any authority received from such State shall be considered to be part of its authority to provide air transportation received from the Board under subchapter IV of this chapter, until modified, suspended, amended, or terminated as provided under such subchapter.

(d) Definition

For purposes of this section, the term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and any territory or possession of the United States.

(Pub. L. 85-726, title I, § 105, as added Pub. L. 95-504, § 4(a), Oct. 24, 1978, 92 Stat. 1708.)

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1306. Omitted

CODIFICATION

Section, Pub. L. 85-726, title I, § 106, as added Pub. L. 95-504, § 5(a), Oct. 24, 1978, 92 Stat. 1709, which provided that the Board and the Secretary of Transportation, not later than Jan. 1, 1980, submit a report to Congress on the feasibility and appropriateness of devising formulas by which States and their political subdivisions could share part of the costs being incurred by the United States under sections 1376 and 1389 of this title, was omitted from the Code as executed.

§ 1307. Safety study

(a) Policy

The Congress intends that the implementation of the Airline Deregulation Act of 1978 result in no diminution of the high standard of safety in air transportation attained in the United States on October 24, 1978.

(b) Report

Not later than January 31, 1980, and each January 31 thereafter, the Secretary of Transportation shall prepare and submit to the Congress and the Board a comprehensive annual report on the extent to which the implementation of the Airline Deregulation Act of 1978 has affected, during the preceding calendar year, or will affect, in the succeeding calendar year, the level of air safety. Each such report shall, at a minimum, contain an analysis of each of the following:

(1) All relevant data on accidents and incidents occurring during the calendar year covered by such report in air transportation and on violations of safety regulations issued by the Secretary of Transportation occurring during such calendar year.

(2) Current and anticipated personnel requirements of the Administrator with respect to enforcement of air safety regulations.

(3) Effects on current levels of air safety of changes or proposals for changes in air carrier operating practices and procedures which occurred during the calendar year covered by such report.

(4) The adequacy of air safety regulations taking into consideration changes in air carrier operating practices and procedures which occurred during the calendar year covered by such report.

Based on such report, the Secretary shall take those steps necessary to ensure that the high standard of safety in air transportation referred to in subsection (a) of this section is maintained in all aspects of air transportation in the United States.

(c) Recommendations

Not later than January 31, 1980, and each January 31 thereafter, the Secretary of Transportation shall submit to the Congress and the Board recommendations with respect to the level of surveillance necessary to enforce air safety regulations and the level of staffing necessary to carry out such surveillance. The Secretary of Transportation's recommendations shall include proposals for any legislation needed to implement such recommendations.

(d) Regulations and inspection procedures

Not later than July 1, 1979, the Secretary of Transportation shall complete a thorough review, and submit a report thereon to the appropriate authorizing committees of the Congress and to the Administrator, of the safety regulations and inspection procedures applicable to each class of air carriers subject to the provisions of subchapter IV of this chapter, in order to ensure that all classes of air carriers are providing the highest possible level of safe, reliable air transportation to all the communities served by those air carriers. Based on such review, the Administrator shall promulgate such safety regulations and establish such inspection procedures as the Administrator deems necessary to maintain the highest standard of safe, reliable air transportation in the United States.

(Pub. L. 85-726, title I, § 107, as added Pub. L. 95-504, § 5(a), Oct. 24, 1978, 92 Stat. 1709.)

REFERENCES IN TEXT

The Airline Deregulation Act of 1978, referred to in subsecs. (a) and (b), is Pub. L. 95-504, Oct. 24, 1978, 92 Stat. 1705, as amended. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 1301 of this title and Tables.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1302 of this title.

§ 1308. Omitted

CODIFICATION

Section, Pub. L. 85-726, title I, § 108, as added Pub. L. 95-504, § 5(a), 92 Stat. 1710, which provided that not later than May 1, 1979, the Board shall prepare and submit a report to the Congress which sets forth the recommendation of the Board on whether this chapter and regulations of the Board should be amended to permit air carriers to sell tours directly to the public and to acquire control of persons authorized to sell tours to the public, was omitted from the Code as executed.

SUBCHAPTER II—CIVIL AERONAUTICS BOARD; GENERAL POWERS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1551 of this title.

§§ 1321 to 1323

EXPIRATION OF SUBCHAPTER IN CONJUNCTION WITH TERMINATION OF CIVIL AERONAUTICS BOARD

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

Section 1551(a)(4) of this title provided that this subchapter shall cease to be in effect on Jan. 1, 1985.

§ 1324. General powers and duties of Board

EXPIRATION OF SUBCHAPTER IN CONJUNCTION WITH TERMINATION OF CIVIL AERONAUTICS BOARD

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

Section 1551(a)(4) of this title provided that this subchapter shall cease to be in effect on Jan. 1, 1985.

GUARANTY OF LOANS FOR PURCHASE OF AIRCRAFT AND EQUIPMENT

Pub. L. 85-307, Sept. 7, 1957, 71 Stat. 629, as amended by Pub. L. 86-3, § 21, Mar. 18, 1959, 73 Stat. 13; Pub. L. 86-70, § 39, June 25, 1959, 73 Stat. 150; Pub. L. 86-624, § 37, July 12, 1960, 74 Stat. 421; Pub. L. 87-820, §§ 1-7, Oct. 15, 1962, 76 Stat. 936; Pub. L. 90-568, §§ 1, 2, Oct. 12, 1968, 82 Stat. 1003; Pub. L. 92-556, Oct. 25, 1972, 86 Stat. 1170; Pub. L. 95-504, § 42, Oct. 24, 1978, 92 Stat. 1748, provided:

"[SEC. 1. DECLARATION OF POLICY] That it is hereby declared to be the policy of Congress, in the interests of the commerce of the United States, the postal service [now United States Postal Service], and the national defense to promote the development of local, feeder, and short-haul air transportation and to promote the development of local, feeder, and short-haul charter air transportation of cargo. In furtherance of this policy it is deemed necessary and desirable that provision be made to assist certain air carriers, charter air carriers, commuter air carriers, and intrastate air carriers engaged in such air transportation by providing governmental guaranties of loans to enable them to purchase aircraft suitable for such transportation on reasonable terms.

"SEC. 2. [DEFINITIONS]. As used in this Act [this note]—

"(1) 'aircraft purchase loan' means any loan, or commitment in connection therewith, made for the purchase of commercial transport aircraft, including spare parts normally associated therewith;

"(2) 'air carrier' means any air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board under section 401(d)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)(1));

"(3) 'charter air carrier' has the meaning given such term in section 101(14) of the Federal Aviation Act of 1958 [section 1301(14) of this title];

"(4) 'charter air transportation' has the meaning given such term in section 101(15) of the Federal Aviation Act of 1958 [section 1301(15) of this title];

"(5) 'commuter air carrier' means any air carrier operating pursuant to section 416(b)(3)[(4)] of the Federal Aviation Act of 1958 (49 U.S.C. 1386(b)(3)[(4)]) who operates at least five round trip flights per week between one pair of points in accordance with published flight schedules;

"(6) 'intrastate air carrier' means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage primarily in intrastate air transportation (as such term is defined in section 101(26) of the Federal Aviation Act of 1958) [section 1301(26) of this title]; and

"(7) 'Secretary' means the Secretary of Transportation.

"SEC. 3. [ELIGIBLE LENDERS]. The Secretary is authorized to guarantee any lender against loss of principal or interest on any aircraft purchase loan made by such lender to—

"(1) any air carrier whose certificate (A) authorizes such air carrier to provide local or feeder air service, (B) authorizes scheduled passenger operations the major portion of which are conducted within the State of Hawaii, (C) authorizes operations (the major portion of which is conducted either within Alaska or between Alaska and the forty-eight contiguous States), within the State of Alaska (including service between Alaska and the forty-eight contiguous States, and between Alaska and adjacent Canadian territory), or (D) authorizes metropolitan helicopter service,

"(2) any charter air carrier for the purchase of any all-cargo nonconvertible aircraft,

"(3) any commuter air carrier, or

"(4) any intrastate air carrier.

Such guarantee shall be made in such form, on such terms and conditions, and pursuant to such regulations, as the Secretary deems necessary and which are not inconsistent with the provisions of this Act [this note].

"SEC. 4. [RESTRICTIONS]. (a) Subject to subsection (b) of this section, no guaranty shall be made—

"(1) extending to more than the unpaid interest and 90 percent of the unpaid principal of any loan;

"(2) on any loan or combination of loans for more than 90 percent of the purchase price of the aircraft, including spare parts, to be purchased therewith;

"(3) on any loan whose terms permit full repayment more than 15 years after the date thereof;

"(4) wherein the total face amount of such loan, and of any other loans to the same air carrier, charter air carrier, commuter air carrier, or intrastate air carrier or corporate predecessor of such air carrier, charter air carrier, commuter air carrier, or intrastate air carrier guaranteed and outstanding under the terms of this Act [this note] exceeds $100,000,000;

"(5) unless the Secretary finds that, without such guaranty, in the amount thereof, the air carrier, charter air carrier, commuter air carrier, or intrastate air carrier would be unable to obtain necessary funds for the purchase of needed aircraft on reasonable terms;

"(6) unless the Secretary finds that the aircraft to be purchased with the guaranteed loan is needed to improve the service and efficiency of operation of the air carrier, charter air carrier, commuter air carrier, or intrastate air carrier;

"(7) unless the Secretary finds that the prospective earning power—

"(A) of the applicant air carrier or charter air carrier, together with the character and value of the security pledged, furnish (i) reasonable assurances of the applicant's ability to repay the loan within the time fixed therefor, and (ii) reasonable protection to the United States; and

"(B) of the applicant commuter air carrier or intrastate air carrier, together with the character and value of the security pledged, furnish (i) reasonable assurances of the applicant's ability and

intention to repay the loan within the time fixed therefor, to continue its operations as a commuter air carrier or intrastate air carrier, and to the extent found necessary by the Secretary, to continue its operations as a commuter air carrier or intrastate air carrier between the same route or routes being operated by such applicant at the time of the loan guarantee, and (ii) reasonable protection to the United States; and

"(8) on any loan or combination of loans for the purchase of any new turbojet-powered aircraft which does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977.

"(b) No guaranty shall be made by the Secretary under subsection (a) of this section on any loan for the purchase of any all-cargo nonconvertible aircraft by any charter air carrier in an amount which, together with any other loans guaranteed and outstanding under this Act [this note] to such charter air carrier, or corporate predecessor of such charter air carrier, would result in the ratio of the total face amount of such loans to $100,000,000 exceeding the ratio of the amount of charter air transportation of such charter air carrier provided to medium, small, and non-hub airports during the twelve-month period preceding the date on which the application for such guaranty is made by such charter air carrier to the total amount of charter air transportation of such charter air carrier during such twelve-month period.

[See main edition for text of Secs. 5 to 7]

"SEC. 8. [TERMINATION DATE]. The authority of the Secretary under section 3 of this Act [section 3 of this note] shall terminate five years after the date of enactment of this section [Oct. 24, 1978]."

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Civil Aeronautics Board, see Parts 1, 15, and 30 of Ex. Ord. No. 11490, eff. Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2251 of Title 50, Appendix, War and National Defense.

§ 1325. Annual report to Congress

EXPIRATION OF SUBCHAPTER IN CONJUNCTION WITH TERMINATION OF CIVIL AERONAUTICS BOARD

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

Section 1551(a)(4) of this title provided that this subchapter shall cease to be in effect on Jan. 1, 1985.

SUBCHAPTER III—ORGANIZATION OF ADMINISTRATION; POWERS AND DUTIES OF ADMINISTRATOR

§ 1341. Federal Aviation Administration

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

COLLECTION OF FEES, CHARGES, AND PRICES; REVIEW AND APPROVAL BY CONGRESS

Pub. L. 95-504, § 45, Oct. 24, 1978, 92 Stat. 1753, provided that: "Notwithstanding any other provisions of law, neither the Secretary of Transportation nor the Administrator of the Federal Aviation Administration shall collect any fee, charge, or price for any approval, test, authorization, certificate, permit, registration, conveyance, or rating relating to any aspect of aviation (1) which is in excess of the fee, charge, or price for such approval, test, authorization, certificate, permit, registration, conveyance, or rating which was in effect on January 1, 1973, or (2) which did not exist on January 1, 1973, until all such fees, charges, and prices are reviewed and approved by Congress."

§ 1343. General powers and duties of Secretary of Transportation

[See main edition for text of (a) to (e)]

(f) Scientific or professional personnel

The Secretary of Transportation is authorized to establish and fix the compensation for not to exceed twenty positions of officers and employees of the Administration of a scientific or professional nature without regard to chapter 51 and subchapter III of chapter 53 of title 5, each such position being established to effectuate those research, development, and related activities of the Administration which require the services of specially qualified scientific or professional personnel. The rates of basic compensation for positions established pursuant to this subsection shall not exceed the maximum rate payable under section 5371 of title 5, and shall be subject to the approval of the Director of the Office of Personnel Management. Positions created pursuant to this subsection shall be included in the classified civil service of the United States, but appointment to such positions shall be made without competitive examination upon approval of the proposed appointee's qualifications by the Director of the Office of Personnel Management or such officers or agents as it may designate for this purpose.

[See main edition for text of (g) to (i)]

(As amended 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

CODIFICATION

In subsec. (f), reference to section 5371 of title 5 was substituted for section 5361 on authority of Pub. L. 95-454, title VIII, § 801(a)(3)(A)(ii), Oct. 13, 1978, 92 Stat. 1221, which redesignated sections 5361 through 5365 of title 5 as section 5371 through 5375.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

"Director of the Office of Personnel Management" was substituted for "Civil Service Commission" pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in the United States Civil Service Commission to the Direc-

tor of the Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§§ 1344 to 1351

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

§ 1352. Collection and dissemination of information

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1353. Development planning

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

§ 1354. Other powers and duties of Secretary of Transportation

[See main edition for text of (a)]

(b) Report of proceedings and investigations; publication of reports, orders, decisions, rules and regulations; use as evidence

Except as may be otherwise provided in this chapter, the Secretary of Transportation shall make a report in writing on all proceedings and investigations under this chapter in which formal hearings have been held, and shall state in such report his conclusions together with his decision, order, or requirement in the premises. All such reports shall be entered of record and a copy thereof shall be furnished to all parties to the proceeding or investigation. The Secretary of Transportation shall provide for the publication of such reports, and all other reports, orders, decisions, rules, and regulations issued by him under this chapter in such form and manner as may be best adapted for public information and use. Publications purporting to be published by the Secretary of Transportation shall be competent evidence of the orders, decisions, rules, regulations, and reports of the Secretary therein contained in all courts of the United States, and of the several States, Territories, and possessions thereof, and the District of Columbia, without further proof or authentication thereof.

[See main edition for text of (c) to (e); credits]

CODIFICATION

Subsec. (b) is set out in this supplement to correct error in the main edition.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1355. Delegation of powers and duties to private persons; application for reconsideration

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

§ 1356. Screening procedures for passengers; promulgation and amendment of regulations by Administrator; reports to Congress; exempted air transportation operations

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§§ 1356a, 1357

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1358. Airport security in Alaska; exemptions from requirements

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

SUBCHAPTER IV—AIR CARRIER ECONOMIC REGULATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1301, 1305, 1307, 1352, 1471, 1472 of this title.

§ 1371. Certificate of public convenience and necessity

[*See main edition for text of (a)*]

(b) Application

Application for a certificate shall be made in writing to the Board, shall be in such form and contain such information, and shall be accompanied by such proof of service upon such interested persons, as the Board shall by regulation require, and upon any community affected.

(c) Route applications; public notice; filing of protest or memorandum; final order

(1) Upon the filing of any application pursuant to subsection (b) of this section, the Board shall give due notice thereof to the public by posting a notice of such application in the office of the secretary of the Board and to such other persons as the Board may by regulation determine. The Board shall—

(A) set such application for a public hearing;

(B) begin to make a determination with respect to such application under the simplified procedures established by the Board in regulations pursuant to subsection (p) of this section; or

(C) dismiss such application on the merits;

not later than ninety days after the date the application is filed with the Board. Any interested person may file with the Board a protest or memorandum of opposition to or in support of the issuance of the certificate requested by such application. Any order of dismissal of an application issued by the Board without setting such application for a hearing or beginning to make a determination with respect to such application under such simplified procedures, shall be deemed a final order subject to judicial review in accordance with the provisions of section 1486 of this title.

(2) If the Board determines that any application should be set for a public hearing under clause (A) of the second sentence of paragraph (1) of this subsection, an initial or recommended decision shall be issued not later than one hundred and fifty days after the date of such determination by the Board. Not later than ninety days after the initial or recommended decision is issued, the Board shall make its final order with respect to such application. If the Board does not act within such ninety-day period—

(A) in the case of an application for a certificate to engage in interstate or overseas air transportation, the initial or recommended decision shall become the final decision of the Board and shall be subject to judicial review in accordance with the provisions of section 1486 of this title; and

(B) in the case of an application for a certificate to engage in foreign air transportation, the initial or recommended decision shall be transmitted to the President pursuant to section 1461 of this title.

(3) Not later than the one-hundred-eightieth day after the Board begins to make a determination with respect to an application under the simplified procedures established by the Board in regulations pursuant to subsection (p) of this section, the Board shall issue its final order with respect to such application.

(4) If an applicant fails to meet the procedural schedule adopted by the Board in a particular proceeding, the applicable period prescribed in paragraph (2) or (3) of this subsection may be extended by the Board for a period equal to the period of delay caused by the applicant. In addition to any extension authorized by the preceding sentence, in extraordinary circumstances, the Board may, by order delay an initial or recommended decision for not to exceed thirty days beyond the final date on which the decision is required to be made.

(d) Issuance of certificate; through service and joint fares; unused authority; fill-up rights; automatic market entry; experimental certificates; determinations

(1) The Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the applicant is fit, willing, and able to perform such transportation properly and to conform to the provisions of this chapter and the rules, regulations, and requirements of the Board hereunder, and that such transportation—

(A) in the case of interstate or overseas air transportation, is consistent with the public convenience and necessity; and

(B) in the case of foreign air transportation, is required by the public convenience and necessity;

otherwise such application shall be denied.

(2) In the case of an application for a certificate to engage in temporary air transportation, the Board may issue a certificate authorizing the whole or any part thereof for such limited periods—

(A) in the case of an application for interstate or overseas air transportation, as is consistent with the public convenience and necessity; and

(B) in the case of an application for foreign air transportation, as may be required by the public convenience and necessity;

if it finds that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of this chapter and the rules, regulations, and requirements of the Board hereunder.

(3) In the case of an application for a certificate to engage in charter air transportation, the

Board may issue a certificate to any applicant, not holding a certificate under paragraph (1) or (2) of this subsection on January 1, 1977, authorizing interstate air transportation of persons, which authorizes the whole or any part thereof—

(A) in the case of an application for interstate or overseas air transportation, for such periods, as is consistent with the public convenience and necessity; and

(B) in the case of an application for foreign air transportation, for such periods, as may be required by the public convenience and necessity;

if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this chapter and the rules, regulations, and requirements of the Board hereunder.

(4)(A) Notwithstanding any other provision of this chapter, any citizen of the United States who undertakes, within any State, the carriage of persons or property as a common carrier for compensation or hire with aircraft capable of carrying thirty or more persons pursuant to authority for such carriage within such State granted by the appropriate State agency is authorized—

(i) to establish services for persons and property which includes transportation by such citizen over its routes in such State and transportation by an air carrier or a foreign air carrier in air transportation; and

(ii) subject to the requirements of section 1382 of this title, to enter into an agreement with any air carrier or foreign air carrier for the establishment of joint fares, rates, or services for such through services.

(B) The joint fares or rates established under clause (ii) of subparagraph (A) of this paragraph shall be the lowest of—

(i) the sum of the applicable fare or rate for service in the State approved by the appropriate State agency, and the applicable fare or rate for that part of the through service provided by the air carrier or foreign air carrier;

(ii) a joint fare or rate established and filed in accordance with section 1373 of this title; or

(iii) a joint fare or rate established by the Board in accordance with section 1482 of this title.

(5)(A) Except as provided in subparagraphs (B) and (G)(i) of this paragraph, if an air carrier is authorized by its certificate to provide round trip service nonstop each way between any two points in the forty-eight contiguous States or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week for at least thirteen weeks during any twenty-six-week period (other than such a period during which service was interrupted by a labor dispute which lasted more than six weeks) the last day of which ends on or after October 24, 1978, and if such service, at a minimum of five round trips per week, has been provided between such points for at least thirteen weeks during such twenty-six-week period, pursuant to published flight schedules, by no more than one other air carrier, then the Board shall issue a certificate to the first applicant who, within thirty days after the last day of such twenty-six-week period, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this chapter.

(B) Except as provided in subparagraph (G)(ii) of this paragraph, if an air carrier is authorized to provide seasonal round trip service nonstop each way between any two points in the forty-eight contiguous States in interstate air transportation or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week during half of the weeks during such season (other than such a season during which service was interrupted by a labor dispute which lasted more than 25 per centum of such season) the last day of which ends on or after October 24, 1978 and if such service, at a minimum of five round trips per week, has been provided between such points for at least half of the weeks during such season, pursuant to published flight schedules, by no more than one other air carrier, then the Board shall issue a certificate to the first applicant who, within thirty days after the last day of such season, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this chapter.

(C) With respect to any application which is submitted pursuant to subparagraph (A) or (B) of this paragraph, except as provided in subparagraph (G), the Board shall issue a final order granting such certificate within fifteen days of the date of such application.

(D) Except as provided in subparagraphs (E) and (G)(i) of this paragraph, if an air carrier is authorized by its certificate to provide round trip service nonstop each way between any two points in the forty-eight contiguous States or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week for at least thirteen weeks during any twenty-six-week period (other than such a period during which service was interrupted by a labor dispute which lasted more than six weeks) the last day of which ends on or after October 24, 1978 and if such service, at a minimum of five round trips per week, has been provided between such points for at least thirteen weeks during such twenty-six-week period, pursuant to published flight schedules, by two or more

other air carriers, then the Board, subject to subparagraph (F) of this paragraph, shall issue a certificate to the first applicant who, within thirty days after the last day of such twenty-six-week period, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this chapter.

(E) Except as provided in subparagraph (G)(ii) of this paragraph, if an air carrier is authorized to provide seasonal round trip service nonstop each way between any two points in the forty-eight contiguous States in interstate air transportation or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week during half of the weeks during such season (other than such a season during which service was interrupted by a labor dispute which lasted more than 25 per centum of such season) the last day of which ends on or after October 24, 1978 and if such service, at a minimum of five round trips per week, has been provided between such points for at least half of the weeks during such season, pursuant to published flight schedules, by two or more other air carriers, then the Board, subject to subparagraph (F) of this paragraph, shall issue a certificate to the first applicant who, within thirty days after the last day of such season, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this chapter.

(F)(i) Except as provided in subparagraph (G) of this paragraph, with respect to any application which is submitted pursuant to subparagraph (D) or (E) of this paragraph, the Board shall issue a final order granting such certificate within sixty days of the date of such application, unless the Board finds that the issuance of such certificate is inconsistent with the public convenience and necessity. Prior to issuing such final order, the Board shall afford adequate notice and opportunity for interested persons to file appropriate written evidence and argument, but the Board need not hold oral evidentiary hearings.

(ii) For purposes of clause (i) of this subparagraph, there shall be a rebuttable presumption that any transportation covered by an application for a certificate submitted pursuant to subparagraph (D) or (E) of this paragraph is consistent with the public convenience and necessity.

(G)(i) If, after the failure of any air carrier to provide the minimum level of service between any pair of points for the period of time specified in subparagraph (A) or (D) of this paragraph and before the Board receives an application from any applicant for a certificate under such subparagraph to provide air transportation between such points, the Board receives notice from such air carrier that it intends to commence service within thirty days of such notice and to provide a minimum of five round trips per week for thirteen consecutive weeks between such points and the Board has not previously received notice from such air carrier with respect to such points, the Board shall not approve such application for a certificate to provide service between such points during such thirteen-week period based upon such failure, unless such air carrier fails to provide such service during such thirteen-week period.

(ii) If, after the failure of any air carrier to provide the minimum level of service between any pair of points for the period of time specified in subparagraph (B) or (E) of this paragraph and before the Board receives an application from any applicant for a certificate under such subparagraph to provide air transportation between such points, the Board receives notice from such air carrier that it intends to commence service within fifteen days of the first day of the next season and to provide a minimum of five round trips per week for the first half of such season between such points and the Board has not previously received notice from such air carrier with respect to such points, the Board shall not approve such application for a certificate to provide service between such points during the first half of such period based upon such failure, unless such air carrier fails to provide such service during the first half of such period.

(H)(i) Whenever the Board issues a certificate pursuant to subparagraph (A) or (D) of this paragraph, the air carrier receiving such certificate shall commence service pursuant to such certificate within forty-five days of such issuance. If such air carrier fails to commence service within such period, the Board shall revoke such certificate.

(ii) Whenever the Board issues a certificate pursuant to subparagraph (B) or (E) of this paragraph to provide seasonal service, the air carrier receiving such certificate shall commence service pursuant to such certificate within fifteen days after the beginning of the first such season which begins on or after the date of such issuance. If such air carrier fails to commence service within such period, the Board shall revoke such certificate.

(I) Not more than one certificate shall be issued under this paragraph for round trip nonstop service between two points in interstate air transportation based upon the failure of the same air carrier to provide such service between such points.

(J) Whenever the Board issues a certificate pursuant to subparagraph (A) of this paragraph based upon the failure of any air carrier to provide the round trip service described in such subparagraph, the Board shall suspend the authority of such air carrier to provide such service, and suspend the authority of any other air carrier which failed to provide such service during the same twenty-six-week period for twenty-six weeks after the date of issuance of such certificate pursuant to subparagraph

(A), or until such time within such twenty-six weeks as the air carrier to which a certificate is issued under such subparagraph fails to provide such service at a minimum of five round trips per week for at least thirteen weeks, whichever first occurs, except that the Board shall not suspend the authority of such air carriers under this subparagraph if the Board finds that such suspension is not necessary to encourage continued service between such points by the air carrier which received a certificate under subparagraph (A).

(6) Any air carrier holding a valid certificate to engage in foreign air transportation is authorized, on any scheduled flight in foreign air transportation, to transport persons, property, and mail between points in the United States between which it is authorized to operate during such flight. The authority described in the preceding sentence shall be limited to one round-trip flight per day between any such pair of points, unless the Board authorizes more than one round-trip flight per day between any such pair of points.

(7)(A) After the first business day of each of the calendar years 1979, 1980, and 1981 and before the thirtieth day of such calendar year—

(i) any air carrier which (I) has operated during the preceding calendar year in accordance with a certificate issued by the Board under this section which has been in force during such entire preceding calendar year, and (II) has provided air transportation of persons during such calendar year; and

(ii) any intrastate air carrier which has a valid certificate or license issued by a State regulatory authority to engage in intrastate air transportation and which has operated more than one hundred million available seat-miles in intrastate air transportation in the preceding calendar year;

may apply to the Board for a certificate under this subparagraph to engage in nonstop service between any one pair of points in interstate or overseas air transportation (other than a pair of points either point of which is in the State of Hawaii) in addition to any pair of points authorized by any existing certificate or license held by such air carrier or intrastate air carrier, except that no air carrier may apply to engage in nonstop service between such pair of points if any air carrier has filed written notice to the Board pursuant to subparagraph (C) of this paragraph with respect to such pair of points. Not later than the sixtieth day after the date on which the Board receives an application from an applicant under this subparagraph, the Board shall issue a certificate to such applicant for the nonstop service specified in such application, unless within such sixty-day period the Board determines that the applicant is not fit, willing, and able to provide such nonstop service and to conform to the provisions of this chapter and the rules, regulations, and requirements of the Board issued under this chapter.

(B) Not later than the one-hundred-twentieth day of calendar year 1979, 1980, or 1981, any air carrier which submitted an application to the Board in accordance with subparagraph (A) of this paragraph in such calendar year and—

(i) which did not receive a certificate to provide service between the pair of points set forth in the application because of a determination by the Board under such subparagraph (A); or

(ii) which received a certificate to provide service between such pair of points, but was not the only air carrier to receive a certificate under such subparagraph (A) during such calendar year to provide nonstop service between such pair of points;

may reapply to the Board for a certificate to engage in nonstop service between any one pair of points in interstate or overseas air transportation (other than the pair of points specified in the first application submitted to the Board by such air carrier in such calendar year and other than a pair of points either point of which is in the State of Hawaii) in addition to any pair of points authorized by any existing certificate or license held by such air carrier or intrastate air carrier, except that no air carrier may apply to engage in nonstop service between such pair of points if any air carrier has filed written notice to the Board pursuant to subparagraph (C) of this paragraph with respect to such pair of points. Not later than the sixtieth day after the date on which the Board receives an application under this subparagraph, the Board shall issue a certificate to the applicant for such nonstop service, unless within such sixty-day period the Board makes a determination with respect to the issuance of such certificate in accordance with the second sentence of subparagraph (A) of this paragraph. If the Board issues a certificate to an applicant under this subparagraph, it shall revoke any authority in any certificate which it granted to such applicant in the same calendar year under subparagraph (A) of this paragraph.

(C)(i) Subject to clause (ii) of this subparagraph, any air carrier which is authorized pursuant to paragraph (1) or (2) of this subsection to engage in nonstop service between any pair of points in interstate or overseas air transportation on the first business day of calendar year 1979, 1980, or 1981 and which wants to preclude any other air carrier from obtaining authority under subparagraph (A) or (B) of this paragraph to engage in nonstop service between such pair of points during such calendar year may, on such day, file written notice to the Board which sets forth such pair of points. Upon receipt of any written notice under the preceding sentence, the Board shall make such notice available to the public.

(ii) No air carrier may file a written notice under clause (i) of this subparagraph during any calendar year with respect to more than one pair of points in interstate or overseas air transportation.

(D)(i) The Board shall, on an emergency basis, by rule, modify the program established by this paragraph, if the Board finds that—

(I) the operation of such program is causing substantial public harm to the national air transportation system, or a substantial reduction in air service to small and medium sized communities in any region of the country;

(II) the modification proposed by the Board is required by the public convenience and ne-

cessity in order to alleviate such harm or reduction; and

(III) such harm or reduction identified by the Board cannot be rectified by any reasonably available means other than the modification proposed by the Board.

Any emergency modification proposed by the Board under this subparagraph shall modify such program only to the minimum extent necessary to rectify the harm or reduction identified by the Board. Any emergency modification of such program may be limited to any pair of points.

(ii) The findings of fact by the Board in any proceeding held pursuant to this subparagraph, if supported by substantial evidence, shall be conclusive. No objection to a modification of the program proposed by the Board under this subparagraph shall be considered by a court unless such objection shall have been submitted to the Board, of[1] if it was not so submitted, unless there were reasonable grounds for failure to do so.

(E) The Board shall conduct a study of the procedure for certification of air carriers and intrastate air carriers set forth in subparagraphs (A) and (B) of this paragraph to evaluate—

(i) whether such procedure is consistent with the criteria set forth in section 1302 of this title; and

(ii) the relative effectiveness of such procedure as compared with other procedures for certification set forth in this chapter, including but not limited to, the procedures set forth in paragraphs (5) and (6) of this subsection and in subsection (p) of this section.

Not later than December 31, 1980, the Board shall complete such study and report the results of such study to the Congress.

(8) The Board may grant an application under subsection (d)(1), (2), or (3) of this section (whether the application be for permanent or temporary authority) for only a temporary period of time whenever the Board determines that a test period is desirable in order to determine if projected services, efficiencies, methods, rates, fares, charges, or other projected results will in fact materialize and remain for a sustained period of time, or to assess the impact of the new services on the national air route structure, or otherwise to evaluate the proposed new services. In any case where the Board has issued a certificate under any one of such subsections on the basis that the air carrier holding such certificate will provide innovative or low-priced air transportation under such certificate, the Board, upon petition, or its own motion, may review the performance of such air carrier, and may alter, amend, modify, suspend, or revoke such certificate or authority in accordance with the procedures prescribed in subsection (g) of this section, on the grounds that such air carrier has not provided, or is not providing, such air transportation.

(9)(A) In any determination as to whether or not any applicant is fit, willing, and able to perform properly the air transportation specified in the application for a certificate described in paragraph (1)(A), (2)(A), or (3)(A) of this subsection and to conform to the provisions of this chapter, the applicant shall have the burden of showing that it is so fit, willing, and able.

(B) In any determination as to whether the air transportation specified in any application for a certificate described in paragraph (1)(A), (2)(A), or (3)(A) of this subsection is or is not consistent with the public convenience and necessity, an opponent of the application shall have the burden of showing that such air transportation is not consistent with the public convenience and necessity.

(C) Transportation covered by any application for a certificate described in paragraph (1)(A), (2)(A), or (3)(A) of this subsection shall, for the purposes of such paragraphs, be deemed to be consistent with the public convenience and necessity, unless the Board finds based upon a preponderance of the evidence that such transportation is not consistent with the public convenience and necessity.

(e) Terms and conditions; removal of restrictions

[*See main edition for text of (1) and (2)*]

(3) A certificate issued under this section to engage in foreign charter air transportation shall designate the terminal and intermediate points only insofar as the Board shall deem practicable and otherwise shall designate only the geographical area or areas within or between which service may be rendered.

(4) No term, condition, or limitation of a certificate shall restrict the right of an air carrier to add to or change schedules, equipment, accommodations, and facilities for performing the authorized transportation and service as the development of the business and the demands of the public shall require.

[*See main edition for text of (5)*]

(6) Any air carrier, other than a charter air carrier, may perform charter trips (including inclusive tour charter trips) or any other special service, without regard to the points named in its certificate, or the type of service provided therein, under regulations prescribed by the Board.

(7)(A) On and after October 24, 1978, the Board shall not attach a closed-door restriction to any certificate issued under this section. Any closed-door restriction attached to any certificate issued before such date shall, on and after such date, have no force or effect. This subparagraph shall not apply to (i) a closed-door restriction applicable to air transportation between two points both of which are in the State of Hawaii, or (ii) a closed-door restriction in effect on such date which resulted from a sale, exchange, or transfer by any air carrier of its authority to provide air transportation to another air carrier.

(B) Upon application of any air carrier seeking removal or modification of a term, condition, or limitation attached to a certificate issued under this section to engage in interstate, overseas, or foreign air transportation, the Board shall, within sixty days after the filing of such application, set such application

[1] So in original. Probably should be "or".

for oral evidentiary hearings on the record or begin to consider such application under the simplified procedures established by the Board in regulations pursuant to subsection (p) of this section for purposes of eliminating or modifying any such term, condition, or limitation which it finds is inconsistent with the criteria set forth in section 1302 of this title. Applications under this paragraph shall not be subject to dismissal pursuant to subsection (c)(1) of this section.

(C) For purposes of this paragraph, the term "closed-door restriction" means any condition attached to a certificate to provide interstate or overseas air transportation issued to any air carrier under this section which prohibits such air carrier from providing local passenger service between any pair of points between which it is authorized to operate pursuant to such certificate.

(f) Effective date and duration

Each certificate shall be effective from the date specified therein, and shall continue in effect until suspended or revoked as provided in this section, or until the Board shall certify that operation thereunder has ceased, or, if issued for a limited period of time under subsection (d)(2) of this section, shall continue in effect until the expiration thereof, unless, prior to the date of expiration, such certificate shall be suspended or revoked as provided herein, or the Board shall certify that operations thereunder have ceased.

(g) Alteration, amendment, modification, suspension, or revocation

The Board upon petition or complaint or upon its own initiative, after notice and hearings or pursuant to the simplified procedures under subsection (p) of this section, may alter, amend, modify, or suspend any such certificate, in whole or in part, if the public convenience and necessity so require, or may revoke any such certificate, in whole or in part, for intentional failure to comply with any provision of this subchapter or any order, rule, or regulation issued hereunder or any term, condition, or limitation of such certificate: *Provided,* That no such certificate shall be revoked unless the holder thereof fails to comply, within a reasonable time to be fixed by the Board, with an order of the Board commanding obedience to the provision, or to the order (other than an order issued in accordance with this proviso), rule, regulation, term, condition, or limitation found by the Board to have been violated. Any interested person may file with the Board a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of the certificate.

[*See main edition for text of* (h) *and* (i)]

(j) Terminations, reductions, and suspensions of service

(1) No air carrier holding a certificate issued under this section shall—

(A) terminate or suspend all air transportation which it is providing to a point under such certificate; or

(B) reduce any such air transportation below that which the Board has determined to be essential air transportation for such point;

unless such air carrier has first given the Board, any community affected, and the State agency of the State in which such community is located, at least 90 days notice of its intent to so terminate, suspend, or reduce such air transportation. The Board may, by regulation or otherwise, authorize such temporary suspension of service as may be in the public interest.

(2) If an air carrier holding a certificate issued pursuant to this section proposes to terminate or suspend nonstop or single-plane air transportation between two points being provided by such air carrier under such certificate, and such air carrier is the only air carrier certificated pursuant to this section providing nonstop or single-plane air transportation between such points, at least sixty days before such proposed termination or suspension, such air carrier shall file with the Board and serve upon each community to be directly affected notice of such termination or suspension.

[*See main edition for text of* (k) *to* (m)]

(n) Additional powers and duties of Board with respect to charter air carriers

(1) No air carrier providing air transportation under a certificate issued under this section shall commingle, on the same flight, passengers being transported in interstate or overseas charter air transportation with passengers being transported in scheduled interstate or overseas air transportation, except that this subsection shall not apply to the carriage of passengers in air transportation under group fare tariffs.

(2) No rule, regulation, or order issued by the Board shall restrict the marketability, flexibility, accessibility, or variety of charter trips provided under a certificate issued under this section except to the extent required by the public interest, and shall in no event be more restrictive than those regulations regarding charter air transportation in effect on October 1, 1978.

(3) Notwithstanding any other provision of this subchapter, no certificate issued under this section shall authorize the holder thereof to provide charter air transportation between two points within the State of Alaska unless, and then only to the extent to which, the Board, in issuing or amending such certificate, may authorize after determining that such charter air transportation is required by the public convenience and necessity. This subsection shall not apply to a certificate issued under this section to a person who, before July 1, 1977, maintained its principal place of business within the State of Alaska and conducted air transport operations between points within the State of Alaska with aircraft having a certificated gross takeoff weight of more than 40,000 pounds.

(4) No certificate issued under this section shall permit a charter air carrier to sell or offer for sale an inclusive tour in air transportation by selling or offering for sale individual tickets directly to members of the general public, or to do so indirectly by controlling, being controlled

by, or under common control with, a person authorized by the Board to make such sales.

(5) In any case in which the Board determines that the failure of a charter air carrier to comply with the provisions of subsection (q) or (r) of this section, or regulations or orders of the Board thereunder, requires, in the interest of the rights, welfare, or safety of the public, immediate suspension of such carrier's certificate, the Board shall suspend such certificate, in whole or in part, without notice or hearing, for not more than thirty days. The Board shall immediately enter upon a hearing to determine whether such certificate should be modified, suspended, or revoked and, pending the completion of such hearing, the Board may further suspend such certificate for additional periods aggregating not more than sixty days. If the Board determines that a carrier whose certificate is suspended under this paragraph comes into compliance with the provisions of subsections (q) and (r) of this section, and regulations and orders of the Board thereunder, the Board may immediately terminate the suspension of such certificate and any pending proceeding commenced under this paragraph, but nothing in this sentence shall preclude the Board from imposing on such carrier a civil penalty for any violation of such provisions, regulations, or orders.

(6) The Board shall prescribe such regulations and issue such orders as may be necessary to carry out the provisions of this subsection.

[*See main edition for text of* (o)]

(p) Procedures for processing applications

(1) The Board shall promulgate rules establishing simplified procedures for—

(A) the disposition of applications for a certificate to engage in air transportation pursuant to subsection (d)(1), (2), or (3) of this section; and

(B) the alteration, amendment, modification, suspension, or transfer of all or any part of any certificate pursuant to subsection (f), (g), or (h) of this section.

Such rules shall provide for adequate notice and an opportunity for any interested person to file appropriate written evidence and argument, but need not provide for oral evidentiary hearings. Such rules may provide that such written evidence and argument shall be filed by such person as part of a protest or memorandum filed with respect to such application under subsection (c) of this section.

(2) The Board may use such simplified procedures in any case if the Board determines that the use of such simplified procedures is in the public interest. The rules adopted by the Board pursuant to this subsection shall, to the extent the Board finds it practicable, set forth the standards it intends to apply in determining whether to employ such simplified procedures, and in deciding cases in which such procedures are employed.

(q) Insurance and liability

(1) No certificate shall be issued or remain in effect unless the applicant for such certificate or the air carrier, as the case may be, complies with regulations or orders issued by the Board governing the filing and approval of policies of insurance or plans for self-insurance in the amount prescribed by the Board which are conditioned to pay, within the amount of such insurance, amounts for which such applicant or such air carrier may become liable for bodily injuries to or the death of any person, or for loss of or damage to property of others, resulting from the operation or maintenance of aircraft under such certificate.

(2) In order to protect travelers and shippers by aircraft operated by certificated air carriers, the Board may require any such air carrier to file a performance bond or equivalent security arrangement, in such amount and upon such terms as the Board shall prescribe, to be conditioned upon such air carrier's making appropriate compensation to such travelers and shippers, as prescribed by the Board, for failure on the part of such carrier to perform air transportation services in accordance with agreements therefor.

(r) Continuing requirements for applicants

The requirement that each applicant for a certificate or any other authority under this subchapter must be found to be fit, willing, and able to perform properly the transportation covered by its application and to conform to the provisions of this chapter and the rules, regulations, and requirements of the Board under this chapter, shall be a continuing requirement applicable to each such air carrier with respect to the transportation authorized by the Board. The Board shall by order, entered after notice and hearing, modify, suspend, or revoke such certificate or other authority, in whole or in part, for failure of such air carrier to comply with the continuing requirement that the air carrier be so fit, willing, and able, or for failure to file such reports as the Board may deem necessary to determine whether such air carrier is so fit, willing, and able.

(As amended Pub. L. 95-163, § 9, Nov. 9, 1977, 91 Stat. 1281; Pub. L. 95-504, §§ 6, 7(a), 8-19(a), 20(b)-(d)(1), 21(a)(1), Oct. 24, 1978, 92 Stat. 1710-1713, 1716, 1718-1723.)

REFERENCES IN TEXT

This chapter, referred to in text, read in the original, "this Act", meaning Pub. L. 85-726, Aug. 23, 1958, 72 Stat. 731, known as the Federal Aviation Act of 1958. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-504, § 6, struck out provision for verification of application and added provision for proof of service upon communities affected.

Subsec. (c). Pub. L. 95-504, § 7(a), redesignated existing provisions as par. (1), added subpars. (A), (B), and (C), and added pars. (2) to (4).

Subsec. (d)(1) to (3). Pub. L. 95-504, § 8, provided that the standards for issuance of permanent, temporary, or charter air transportation certificates would vary in accordance with public convenience and necessity dependent upon the nature of the air transportation as interstate, overseas, or foreign.

Subsec. (d)(4). Pub. L. 95-504, § 9, provided that the through service and joint fares provisions apply nationally and not just in the States of California and Florida.

Subsec. (d)(5). Pub. L. 95-504, § 10(a), added par. (5).
Subsec. (d)(6). Pub. L. 95-504, § 11, added par. (6).
Subsec. (d)(7). Pub. L. 95-504, § 12, added par. (7).
Subsec. (d)(8). Pub. L. 95-504, § 13, added par. (8).
Subsec. (d)(9). Pub. L. 95-504, § 14, added par. (9).
Subsec. (e). Pub. L. 95-504, §§ 15, 16, substituted "foreign charter air transportation" for "supplemental air transportation" in par. (3), struck out provision allowing Board to place limitations on certificate in par. (4), substituted "charter air carrier" for "supplemental air carrier" in par. (6), and added par. (7).
Subsec. (f). Pub. L. 95-504, §§ 10(b), 17, substituted "provided in this section" for "hereinafter provided" and struck out proviso making certificates ineffective in cases of untimely service.
Subsec. (g). Pub. L. 95-504, § 18 inserted "or pursuant to the simplified procedures under subsection (p) of this section" following "notice and hearings".
Subsec. (j). Pub. L. 95-504, § 19(a) designated existing provisions as par. (1) and, as so redesignated, revised provisions included therein to address problems of air transportation suspensions or reductions in addition to service abandonments, added provision for notice of terminations, reductions, or suspensions, struck out provision for filing memoranda of opposition, and added par. (2).
Subsec. (n). Pub. L. 95-504, § 20(b), (c), revised subsection generally and, among other changes, in pars. (1) to (4), struck out provisions relating to restrictions on operating authorizations, performance bonds, certificates for supplemental air transportation and requirements for certificate applicants, added provisions prohibiting the commingling of charter and scheduled interstate or overseas passengers, prohibiting restrictions on charter trips, prohibiting charter transportation between two points within Alaska, prohibiting inclusive charter tours, and in par. (5) substituted "a charter air carrier to comply with the provisions of subsection (q) or (r) of this section" for "a supplemental air carrier to comply with the provisions of paragraph (1), (3) or (4) of this subsection" and "subsections (q) and (r) of this section" for "paragraphs (1), (3), and (4) of this subsection".
Subsec. (p). Pub. L. 95-504, § 21(a)(1), added subsec. (p).
Subsecs. (q), (r). Pub. L. 95-504, § 20(d)(1), added subsecs. (q) and (r).
1977—Subsec. (d)(4). Pub. L. 95-163 added par. (4).

EFFECTIVE DATE OF 1978 AMENDMENT

Section 7(b) of Pub. L. 95-504 provided that: "The amendments made by subsection (a) of this section [amending subsec. (c) of this section] shall apply to any application filed under section 401(b) of the Federal Aviation Act of 1958 [subsec. (b) of this section] on or after the one-hundred-eightieth day after the date of enactment of this Act [Oct. 24, 1978]."

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1305, 1356, 1356a, 1358, 1375, 1378, 1386, 1388, 1389, 1482, 1482a, 1487, 1517, 1518, 1551, 1552, 1711, 1718, 1729 of this title; title 39 section 5402.

§ 1372. Permits to foreign air carriers

[*See main edition for text of* (a) *to* (g)]

(h) Procedures for processing applications

The Board shall promulgate rules establishing simplified procedures for—

(1) the disposition of applications for a permit to engage in foreign air transportation pursuant to this section; and

(2) the alteration, amendment, modification, suspension, or transfer of all or any part of any permit pursuant to subsection (f) of this section.

Such rules shall provide for adequate notice and an opportunity for all interested persons to file appropriate written evidence and argument, but need not provide for oral evidentiary hearings.

(As amended Pub. L. 95-504, § 21(b)(1), Oct. 24, 1978, 92 Stat. 1723.)

AMENDMENTS

1978—Subsec. (h). Pub. L. 95-504 added subsec. (h).

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1373. Tariffs of air carriers

[*See main edition for text of* (a)]

(b) Observance of tariffs; granting, soliciting, or accepting rebates

(1) No air carrier or foreign air carrier or any ticket agent shall charge or demand or collect or receive a greater or less or different compensation for air transportation, or for any service in connection therewith, than the rates, fares, and charges specified in then currently effective tariffs of such air carrier or foreign air carrier; and no air carrier or foreign air carrier or ticket agent shall, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise, refund or remit any portion of the rates, fares, or charges so specified, or extend to any person any privileges or facilities, with respect to matters required by the Board to be specified in such tariffs except those specified therein. Nothing in this chapter shall prohibit such air carriers or foreign air carriers, under such terms and conditions as the Board may prescribe, from issuing or interchanging tickets or passes for free or reduced-rate transportation to their directors, officers, and employees (including retired directors, officers, and employees who are receiving retirement benefits from any air carrier or foreign air carrier), the parents and immediate families of such officers and employees, and the immediate families of such directors; widows, widowers, and minor children of employees who have died as a direct result of personal injury sustained while in the performance

of duty in the service of such air carrier or foreign air carrier; witnesses and attorneys attending any legal investigation in which any such air carrier is interested; persons injured in aircraft accidents and physicians and nurses attending such persons; immediate families, including parents, of persons injured or killed in aircraft accidents where the object is to transport such persons in connection with such accident; and any person or property with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation; and, in the case of overseas or foreign air transportation to such other persons and under such other circumstances as the Board may by regulations prescribe. Any air carrier or foreign air carrier, under such terms and conditions as the Board may prescribe, may grant reduced-rate transportation on a space-available basis to any minister of religion, any person who is sixty years of age or older and retired, any person who is sixty-five years of age or older, and to any handicapped person and any attendant required by such handicapped person. For the purposes of this subsection, the term "handicapped person" means any person who has severely impaired vision or hearing, and any other physically or mentally handicapped person, as defined by the Board. For purposes of this subsection, the term "retired" means no longer gainfully employed as defined by the Board.

[*See main edition for text of (2)*]

(c) Notice of change in tariff

(1) Except as provided in paragraph (2) of this subsection, no change shall be made in any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, specified in any effective tariff of any air carrier until thirty days after notice of the proposed change has been filed, posted, and published in accordance with subsection (a) of this section, except the Board may establish an alternative notice requirement, of not less than twenty-five days, to allow an air carrier to match the fares or charges specified in another air carrier's proposed tariff. Any notice specified under this subsection shall plainly state the change proposed to be made and the time such change will take effect.

(2) If the effect of any proposed tariff change would be to institute a fare that is outside of the applicable range of fares specified in subparagraphs (A) and (B) of section 1482(d)(4) of this title, or specified by the Board under section 1482(d)(7) of this title, or would be to institute a fare to which such range of fares does not apply, then such proposed change shall not be implemented except after sixty days' notice filed in accordance with regulations prescribed by the Board.

(3) In exercising its power to suspend tariffs under section 1482(g) and (j) of this title, the Board shall file and deliver a statement in writing of its reasons for such suspension, as required under section 1482(g) of this title, at least thirty days before the date on which the affected tariff would otherwise go into effect.

[*See main edition for text of (d)*]

(As amended Pub. L. 95-163, §§ 8(a), 10(a), Nov. 9, 1977, 91 Stat. 1281; Pub. L. 95-504, § 22, Oct. 24, 1978, 92 Stat. 1724.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-504 generally revised subsection and among other changes, in pars. (1) and (2), provided that no rate change could take place until 30 days after filing of notice, where the range of fares was not applicable, changed the notice requirement to 60 days from 45 days, struck out provision allowing Board to change fare without notice, and added par. (3).

1977—Subsec. (b)(1). Pub. L. 95-163, § 8(a), expanded the enumeration of persons to whom air carriers may grant reduced-rate transportation on a space-available basis to include persons who are sixty years of age or older and retired, persons who are sixty-five years of age or older even though they may not be retired, handicapped persons, and attendants required by handicapped persons.

Subsec. (c). Pub. L. 95-163, § 10(a), designated a portion of existing provisions as par. (1), substituted "air carrier, directly engaged in the operation of aircraft if such rate, fare, or charge is for the carriage of property in air transportation, except after sixty days' notice" for "air carrier, except after thirty days' notice" in par. (1) as so designated, and added par. (2).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 11(a) of Pub. L. 95-163 provided that: "The amendment made by subsection (a) of section 10 of this Act [amending subsec. (c) of this section] shall apply to any tariff change filed by any air carrier or foreign air carrier in accordance with section 403(c) of the Federal Aviation Act of 1958 [subsec. (c) of this section] after the thirtieth day after the date of enactment of this section [Nov. 9, 1977]."

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

STUDY ON REDUCED RATE TRANSPORTATION FOR PERSONS TWENTY-ONE YEARS OLD OR YOUNGER; REPORT WITHIN 6 MONTHS AFTER NOVEMBER 9, 1977

Section 8(b) of Pub. L. 95-163, which provided that within 6 months after Nov. 9, 1977, the Board study and report to Congress on the feasibility and economic impact of air carriers and foreign air carriers providing reduced-rate transportation on a space available basis to persons twenty-one years of age or younger, was omitted from the Code as executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1371, 1551 of this title.

§ 1374. Rates for carriage of persons and property; duty to provide service, rates, and divisions; foreign air transportation rates; discrimination

(a)(1) It shall be the duty of every air carrier to provide and furnish interstate and overseas air transportation, as authorized by its certificate, upon reasonable request therefor and to provide reasonable through service in such air transportation in connection with other air carriers authorized to engage in scheduled air transportation by certificate or by exemption under section 1386(b)(3) of this title; to provide

safe and adequate service, equipment, and facilities in connection with such transportation; to establish, observe, and enforce just and reasonable individual and joint rates, fares, and charges, and just and reasonable classifications, rules, regulations, and practices relating to such air transportation; and, in case of such joint rates, fares, and charges, to establish just, reasonable, and equitable divisions thereof as between air carriers participating therein which shall not unduly prefer or prejudice any of such participating air carriers.

[See main edition for text of (2); (b)]

(As amended Pub. L. 95-504, § 23, Oct. 24, 1978, 92 Stat. 1724.)

AMENDMENTS

1978—Subsec. (a)(1). Pub. L. 95-504 added a provision limiting service in connection with other air carriers to those authorized by certificate or exemption.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1551 of this title.

§ 1375. Transportation of mail

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1376, 1551 of this title.

§ 1376. Rates for transportation of mail

(a) Authorization to fix rates

The Board is empowered and directed, upon its own initiative or upon petition of the Postmaster General or an air carrier, (1) to fix and determine from time to time, after notice and hearing, the fair and reasonable rates of compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith (including the transportation of mail by an air carrier by other means than aircraft whenever such transportation is incidental to the transportation of mail by aircraft or is made necessary by conditions of emergency arising from aircraft operation), by each holder of a certificate authorizing the transportation of mail by aircraft, and to make such rates effective from such date as it shall determine to be proper; (2) to prescribe the method or methods, by aircraft-mile, pound-mile, weight, space, or any combination thereof, or otherwise, for ascertaining such rates of compensation for each air carrier or class of air carriers; and (3) to publish the same. Nothing in this section shall prohibit the Board from making payments as compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, for the period August 1, 1973, through July 31, 1975, where such payments have already been provided by Board order, to the holder of a certificate authorizing the transportation of mail by aircraft, to the account or for the benefit of any air carrier designated an "air taxi operator" by the Board, which provided air transportation between points named in the holder's certificate in satisfaction of an express condition to the suspension by Board order of the holder's certificate authority to engage in air transportation between those points. In no event shall such payments differ from the amount previously provided by such Board order.

(b) Rate making elements

In fixing and determining fair and reasonable rates of compensation under this section, the Board, considering the conditions peculiar to transportation by aircraft and to the particular air carrier or class of air carriers, may fix different rates for different air carriers or classes of air carriers, and different classes of service. In determining the rate in each case, the Board shall take into consideration, among other factors, (1) the condition that such air carriers may hold and operate under certificates authorizing the carriage of mail only by providing necessary and adequate facilities and service for the transportation of mail; (2) such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law; and (3) the need of each such air carrier (other than a charter air carrier) for compensation for the transportation of mail sufficient to insure the performance of such service, and—

(A) during the period beginning on October 24, 1978 and ending on January 1, 1983, both dates inclusive, together with all other revenue of the air carrier from the service for which the compensation is being paid; and

(B) after January 1, 1983, together with all other revenue of the air carrier;

to enable such air carrier under honest, economical, and efficient management, to provide (except for modifications with respect to an individual point determined after January 1, 1983, to be required by the public interest, after giving interested parties an opportunity for an evidentiary hearing with respect to air transportation for such individual point) air transportation of at least the same extent, character, and quality as that provided during the year ending December 31, 1977, to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the Postal Service, and the national defense. Notwithstanding any other provision of this section, rates of compensation paid to any carrier under this section for service performed between October 24, 1978 and January 1, 1983, shall be based on the subsidy need of such carrier with respect to service performed to points for which such carrier was entitled to receive

compensation for serving during calendar year 1977. In the case of any local service carrier, such subsidy need shall be based on the adjusted eligible need of such carrier determined in a matter consistent with the provisions of Local Service Class Subsidy Rate VIII, with technical adjustments, and in the case of any other carrier receiving compensation during the twelve months ended June 30, 1978, such subsidy need shall be determined pursuant to the method in effect during the twelve months ended June 30, 1978. Any air carrier receiving compensation from the Board pursuant to this section which, before January 1, 1986, terminates service to a point for which such compensation is paid shall not, if such service is resumed by such air carrier, be eligible for compensation from the Board under this section for such service. Nothing in this subsection shall be construed as prohibiting any air carrier specified in the preceding sentence from applying for and receiving compensation for such service under section 1389 of this title. In applying clause (3) of this subsection, the Board shall take into consideration any standards and criteria prescribed by the Secretary of Transportation, for determining the character and quality of transportation required for the commerce of the United States and the national defense. In determining compensation for any local service air carrier for the years 1964, 1965, and 1966 in accordance with the provisions of this subsection, the Board shall apply Local Service Class Subsidy Rates III and III-A as set forth in Board orders E-21311 and E-23850 (41 CAB 138 et seq. and 44 CAB 637 et seq.), except that the Board shall not apply that part of such order which requires the Board to take into account any decrease in the Federal income tax liability of such carrier for such year resulting from any net operating loss carryback pursuant to section 172 of title 26.

(c) Payments for transportation of mail

The Postmaster General shall make payments out of appropriations for the transportation of mail by aircraft of so much of the total compensation as is fixed and determined by the Board under this section without regard to clause (3) of subsection (b) of this section. The Board shall make payments of the remainder of the total compensation payable under this section out of appropriations made to the Board for that purpose. The Board shall make no payments under this section for any services performed after January 1, 1986.

[See main edition for text of (d) to (h)]

(As amended Pub. L. 95-163, §§ 12(a), 13, Nov. 9, 1977, 91 Stat. 1282; Pub. L. 95-504, §§ 24, 25(a), Oct. 24, 1978, 92 Stat. 1725.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-504, §§ 24(a), 25(a), excluded charter air carriers from the provisions of cl. (3), substituted "the years 1964, 1965, and 1966" for "the year 1966", "Rates III and III-A" for "Rate III-A", and "orders E-21311 and E-23850 (41 CAB 138 et seq. and 44 CAB 637 et seq.)" for "order E-23850 (44 CAB 637 et seq.)", and added provisions relating to the Oct. 24, 1978 to Jan. 1, 1983 air service period.

Subsec. (c). Pub. L. 95-504, § 24(b), added provision prohibiting Board from making payments for services performed after January 1, 1986.

1977—Subsec. (a). Pub. L. 95-163, § 13, provided that nothing in this section shall prohibit the Board from making payments as compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, for the period August 1, 1973, through July 31, 1975, where such payments have already been provided by Board order, to the holder of a certificate authorizing the transportation of mail by aircraft, to the account or for the benefit of any air carrier designated an "air taxi operator" by the Board, which provided air transportation between points named in the holder's certificate in satisfaction of an express condition to the suspension by Board order of the holder's certificate authority to engage in air transportation between those points, but that, in no event could such payments differ from the amount previously provided by such Board order.

Subsec. (b). Pub. L. 95-163, § 12(a), provided that in determining compensation for any local service air carrier for the year 1966 in accordance with the provisions of this subsection, the Board shall apply Local Service Class Subsidy Rate III-A as set forth in Board order E-23850 (44 CAB 637 et seq.), except that the Board shall not apply that part of such order which requires the Board to take into account any decrease in the Federal income tax liability of such carrier for such year resulting from any net operating loss carryback pursuant to section 172 of Title 26.

CHANGE OF NAME

The Postal Service, referred to in subsec. (b), has been redesignated the United States Postal Service pursuant to Pub. L. 91-375, § 6(o), Aug. 12, 1970, 84 Stat. 733, set out as a note preceding section 101 of Title 39, Postal Service.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

REDETERMINATION OF COMPENSATION FOR LOCAL SERVICE AIR CARRIERS FOR 1964, 1965, OR 1966

Section 12(b) of Pub. L. 95-163, as amended by Pub. L. 95-504, § 25(b), Oct. 24, 1978, 92 Stat. 1726, provided that: "In the event that the Civil Aeronautics Board in determining the amount of compensation to be paid to any local service air carrier for the year 1964, 1965, or 1966 in accordance with the provisions of section 406(b) of the Federal Aviation Act of 1958 [subsec. (b) of this section] took into account any decrease in the Federal income tax liability for such air carrier for such year resulting from any net operating loss carryback pursuant to section 172 of the Internal Revenue Code of 1954, [section 172 of Title 26, Internal Revenue Code], the Board shall redetermine the compensation to be paid to such air carrier in accordance with section 406(b) as amended by this section, and shall make payment to such air carrier of any amount owed to such carrier as provided in such redetermination."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1389, 1551 of this title; title 39 section 3401.

§ 1377. Accounts, records, and reports

[See main edition for text of (a) to (d)]

(e) Inspection of property and accounts

The Board shall at all times have access to all lands, buildings, and equipment of any air carrier or foreign air carrier and to all accounts, records, and memorandums, including all documents, papers, and correspondence, now or hereafter existing, and kept or required to be kept by air carriers, foreign air carriers, or ticket agents and it may employ special agents or auditors, who shall have authority under the orders of the Board to inspect and examine any and all such lands, buildings, equipment, accounts, records, and memorandums. The provisions of this section shall apply, to the extent found by the Board to be reasonably necessary for the administration of this chapter, to persons having control over any air carrier, or affiliated with any air carrier within the meaning of section 11343(c) of this title.

[See main edition for credits]

CODIFICATION

In subsec. (e), "section 11343(c) of this title" was substituted for "section 5(8) [(7)] of this title" on authority of section 3(b) of Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV (§ 10101 et seq.) of this title. Reference to section 5(8) in the original should have been to section 5(7), which was the correct reference to the definition of affiliation with a carrier.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1551 of this title.

§ 1378. Consolidation, merger, and acquisition of control

(a) Prohibited acts

Except as provided in subsection (b) of this section, it shall be unlawful—

(1) for two or more air carriers, or for any air carrier and any other common carrier or any person substantially engaged in the business of aeronautics, to consolidate or merge their properties, or a substantial portion thereof, into one person for the ownership, management, or operation of the properties previously in separate ownerships;

(2) for any air carrier, any person controlling an air carrier, any other common carrier, or any person substantially engaged in the business of aeronautics, to purchase, lease, or contract to operate all or a substantial portion of the properties of any air carrier;

(3) for any air carrier or person controlling an air carrier to purchase, lease, or contract to operate all or a substantial portion of the properties of any person substantially engaged in the business of aeronautics otherwise than as an air carrier;

(4) for any foreign air carrier or person controlling a foreign air carrier to acquire control in any manner whatsoever of any citizen of the United States substantially engaged in the business of aeronautics;

(5) for any air carrier or person controlling an air carrier, any other common carrier, or any person substantially engaged in the business of aeronautics to acquire control of any air carrier in any manner whatsoever;

(6) for any air carrier or person controlling a certificated air carrier to acquire control, in any manner whatsoever, of any person substantially engaged in the business of aeronautics other than as an air carrier; or

(7) for any person to continue to maintain any relationship established in violation of any of the foregoing paragraphs of this subsection.

(b) Power of Board

(1) In any case in which one or more of the parties to a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in subsection (a) of this section is an air carrier holding a valid certificate issued by the Board under section 1371(d) of this title to engage in interstate or overseas air transportation, a foreign air carrier, or a person controlling, controlled by, or under common control with, such an air carrier or a foreign air carrier, the person seeking approval of such transaction shall present an application to the Board, and, at the same time, a copy to the Attorney General and the Secretary of Transportation, and thereupon the Board shall notify the persons involved in the transaction and other persons known to have a substantial interest in the proceeding, of the manner in which the Board will proceed in disposing of such application. Unless, after a hearing, the Board finds that the transaction will not be consistent with the public interest or that the conditions of this section will not be fulfilled, it shall, by order, approve such transaction, upon such terms and conditions as it shall find to be just and reasonable and with such modifications as it may prescribe, except the Board shall not approve such transaction—

(A) if it would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of air transportation in any region of the United States; or

(B) the effect of which in any region of the United States may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are outweighed in the public interest by the probable effect of the transaction in meeting significant transportation conveniences and needs of the public, and unless it finds that such significant transportation conveniences and needs may not be satisfied by a reasonably available alternative having materially less anticompetitive effects.

The party challenging the transaction shall bear the burden of proving the anticompetitive effects of such transaction, and the proponents of the transaction shall bear the burden of proving that it meets the significant transportation conveniences and needs of the public and that such conveniences and needs may not be satisfied by a less anticompetitive alternative.

(2) In any case in which the Board determines that the transaction which is the subject of the application does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, and determines that neither the Attorney General, nor the Secretary, nor any other person disclosing a substantial interest in the transaction then currently is requesting a hearing, the Board, no sooner than 30 days after publication in the Federal Register of notice of the Board's intention to dispose of such application without a hearing (a copy of which notice shall be furnished by the Board to the Attorney General and the Secretary not later than the day following the date of such publication), may determine that the public interest does not require a hearing and, in accordance with the standards set forth in subparagraphs (A) and (B) of paragraph (1) of this subsection, by order, approve or disapprove such transaction.

(3)(A) In any case in which none of the parties to a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in subsection (a) of this section, is an air carrier holding a valid certificate issued by the Board under section 1371(d) of this title to engage in interstate or overseas air transportation, a foreign air carrier, or a person controlling, controlled by, or under common control with, such an air carrier or a foreign air carrier, any person seeking approval of such transaction shall file with the Board not later than the forty-fifth day before the effective date of such transaction, a statement of its intent to enter into any of the prohibited acts set forth in subsection (a) of this section. The Board may, within forty-five days after the date of such filing, require such person to file an application for approval pursuant to the requirements of paragraph (1) of this subsection if it finds either that the proposed transaction may monopolize, tend to monopolize, or otherwise restrain competition in air transportation in any section of the country or that the person may not be fit, willing, and able to properly perform the transportation authorized by any license which is a part of such transaction and to conform to the provisions of this chapter and the rules, regulations, and requirements of the Board issued pursuant to this chapter. Subject to subparagraph (B) of this paragraph, if the Board fails to require such person to file an application pursuant to such paragraph (1) within such forty-five days, the proposed transaction shall not be subject to subsection (a) of this section.

(B) If the Board determines that any transaction is not subject to subsection (a) of this section as a result of the last sentence of subparagraph (A) of this paragraph and such transaction received such statutory exemption due to any fraud, misrepresentation, or omission of relevant and material facts, the Board may, pursuant to rules which it is authorized to prescribe, make such transaction subject to subsection (a) of this section.

(c) Interests in ground facilities

The provisions of this section and section 1379 of this title shall not apply with respect to the acquisition or holding by any air carrier, any person controlling such air carrier, or any officer or director thereof, of (1) any interest in any ticket office, landing area, hangar, or other ground facility reasonably incidental to the performance by such air carrier of any of its services, or (2) any stock or other interest or any office or directorship in any person whose principal business is the maintenance or operation of any such ticket office, landing area, hangar, or other ground facility.

[*See main edition for text of (d) to (f)*]

(As amended Pub. L. 95-504, § 26, Oct. 24, 1978, 92 Stat. 1726.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(3)(A), (d), and (e), read in the original, "this Act", meaning Pub. L. 85-726, Aug. 23, 1958, 72 Stat. 731, known as the Federal Aviation Act of 1958. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-504, § 26(a)(1), amended subsec. (a) generally, striking out provision authorizing the Board to exempt any acquisition of a noncertificated air carrier in the public interest under par. (5) and substituting "person substantially engaged" for "person engaged" and "business of aeronautics" for "aeronautics" wherever appearing.

Subsec. (b). Pub. L. 95-504, § 26(a)(2), in par. (1), added provisions requiring a copy of any application for specified transactions to be submitted to the Attorney General and the Secretary of Transportation and allocating the burdens of proving anticompetitive effects of specified transactions and compliance with the convenience and necessity standard between proponents and opponents of the proposed transactions, struck out provision authorizing the Board to treat non-air carriers as air carriers in certain cases and, added pars. (2) and (3).

Subsec. (c). Pub. L. 95-504, § 26(b), inserted "any person controlling such air carrier" following "by any air carrier".

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1384, 1490, 1551 of this title.

§ 1379. Interlocking relationships

It shall be unlawful, unless such relationship shall have been approved by order of the Board upon due showing, in the form and manner prescribed by the Board, that the public interest will not be adversely affected thereby—

(1) For any air carrier to have and retain an officer or director who is an officer, director, or member, or who as a stockholder holds a controlling interest, in any other person who is a common carrier or is substantially engaged in the business of aeronautics.

(2) For any air carrier, knowingly and willfully, to have and retain an officer or director who has a representative or nominee who represents such officer or director as an officer, director, or member, or as a stockholder holding a controlling interest, in any other person who is a common carrier or is substantially engaged in the business of aeronautics.

(3) For any person who is an officer or director of an air carrier to hold the position of officer, director, or member, or to be a stockholder holding a controlling interest, or to have a representative or nominee who represents such person as an officer, director, or member, or as a stockholder holding a controlling interest, in any other person who is a common carrier or is substantially engaged in the business of aeronautics.

(4) For any air carrier to have and retain an officer or director who is an officer, director, or member, or who as a stockholder holds a controlling interest, in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, any other person substantially engaged in the business of aeronautics.

(5) For any air carrier, knowingly and willfully, to have and retain an officer or director who has a representative or nominee who represents such officer or director as an officer, director, or member, or as a stockholder holding a controlling interest, in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, any other person substantially engaged in the business of aeronautics.

(6) For any person who is an officer or director of an air carrier to hold the position of officer, director, or member, or to be a stockholder holding a controlling interest, or to have a representative or nominee who represents such person as an officer, director, or member, or as a stockholder holding a controlling interest, in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, any other person substantially engaged in the business of aeronautics.

(As amended Pub. L. 95-504, § 27(b)-(d), Oct. 24, 1978, 92 Stat. 1728.)

Amendments

1978—Pub. L. 95-504 struck out subsection designation preceding provisions comprising former subsec. (a), and as so redesignated, substituted "substantially engaged in the business of" for "engaged in any phase of" wherever appearing, and struck out former subsec. (b), relating to an air carrier receiving money for his own benefit.

Termination of Civil Aeronautics Board and Transfer of Certain Functions

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

Section Referred to in Other Sections

This section is referred to in sections 1378, 1384, 1490, 1551 of this title.

§ 1380. Loans and financial aid; aircraft loan guarantees

Transfer of Functions

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

Termination of Civil Aeronautics Board and Transfer of Certain Functions

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1381. Methods of competition

Termination of Civil Aeronautics Board and Transfer of Certain Functions

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1382. Pooling and other agreements

(a) Filing

Every air carrier shall file with the Board a true copy, or, if oral, a true and complete memorandum, of every contract or agreement (whether enforceable by provisions for liquidated damages, penalties, bonds, or otherwise) affecting foreign air transportation and in force on the effective date of this section or hereafter entered into, or any modification or cancellation thereof, between such air carrier and any other air carrier, foreign air carrier, or other carrier for pooling or apportioning earnings, losses, traffic, service, or equipment, or relating to the establishment of transportation rates, fares, charges, or classifications, or for preserving and improving safety, economy, and efficiency of operation, or for controlling, regulating, preventing, or otherwise eliminating destructive, oppressive, or wasteful competition, or for regulating stops, schedules, and character of service, or for other cooperative working arrangements.

(b) Public interest

The Board shall by order disapprove any such contract or agreement affecting foreign air transportation, whether or not previously approved by it, that it finds to be adverse to the public interest, or in violation of this chapter, and shall by order approve any such contract or

agreement, affecting foreign air transportation, or any modification or cancellation thereof, that it does not find to be adverse to the public interest, or in violation of this chapter; except that the Board may not approve any contract or agreement affecting foreign air transportation between an air carrier not directly engaged in the operation of aircraft in air transportation and a common carrier subject to the Interstate Commerce Act, as amended, governing the compensation to be received by such common carrier for transportation services performed by it.

(c) Filing and approval of agreements affecting interstate or overseas air transportation

(1) Any air carrier may file with the Board a true copy, or, if oral, a true and complete memorandum, of any contract or agreement (whether enforceable by provisions for liquidated damages, penalties, bonds, or otherwise), or a request for authority to discuss possible cooperative working arrangements, affecting interstate or overseas air transportation and in force on October 24, 1978, or thereafter entered into, or any modification or cancellation thereof, between such air carrier and any other air carrier, foreign air carrier, or other carrier.

(2)(A) The Board shall by order disapprove any contract, agreement, or request filed pursuant to paragraph (1) of this subsection, whether or not previously approved by it, that it finds to be adverse to the public interest or in violation of this chapter, and shall by order approve any contract, agreement, or request, or any modification or cancellation thereof, that it does not find to be adverse to the public interest, or in violation of this chapter, except that—

(i) the Board may not approve or, after periodic review, continue its approval of any such contract, agreement, or request, or any modification or cancellation thereof, which substantially reduces or eliminates competition, unless it finds that the contract, agreement, or request is necessary to meet a serious transportation need or to secure important public benefits and it does not find that such need can be met or such benefits can be secured by reasonably available alternative means having materially less anticompetitive effects;

(ii) the Board may not approve any contract or agreement between an air carrier not directly engaged in the operation of aircraft in air transportation and a common carrier subject to subtitle IV of this title, governing the compensation to be received by such common carrier for transportation services performed by it; and

(iii) the Board may not approve any such contract or agreement, or any modification or cancellation thereof, that limits the level of capacity among air carriers in markets in which they compete, that fixes rates, fares, or charges between or among air carriers (except for joint rates, fares, or charges).

(B) In any proceeding before the Board involving the application of the standards set forth in subparagraph (A)(i) of this paragraph, the party opposing the proposed contract, agreement, or request shall have the burden of proving the reduction or elimination of competition, and the availability of alternative means having less anticompetitive effects, and the party defending the proposed contract, agreement, or request shall have the burden of proving transportation need or public benefits.

(C) The findings required by subparagraph (A)(i) of this paragraph, shall be included in any order of the Board approving or disapproving any contract or agreement, or any memorandum of any contract or agreement, or any modification or cancellation thereof, or any request.

(d) Proceedings upon filing

Upon the filing of any contract or agreement, or any modification or cancellation thereof, or any request for authority to discuss possible cooperative working arrangements, pursuant to subsection (a) or (c) of this section, the Board, in accordance with regulations which it prescribes, shall provide to the Attorney General and the Secretary of Transportation written notice of, and an opportunity to submit written comments on, the filed document. The Board may, upon its own initiative or if requested by the Attorney General or such Secretary, hold a hearing, in accordance with regulations prescribed by the Board, to determine if a contract or agreement, or request for discussion authority, whether or not previously approved, is consistent with the provisions of this chapter.

(e) Mutual aid agreements

(1) Notwithstanding any other provision of law, any mutual aid agreement between air carriers which was approved by the Board before October 24, 1978 and which is in effect on October 24, 1978 shall be deemed disapproved and not in effect on and after October 24, 1978.

(2) No air carrier shall enter into any mutual aid agreement with any other air carrier, unless such air carrier files a true copy of such agreement with the Board and the Board approves such agreement pursuant to the provisions of this section. Notwithstanding subsection (c) of this section, the Board shall not approve any such agreement unless such agreement provides (A) that any air carrier will not receive payments for any period which exceed 60 per centum of the direct operating expenses during such period, (B) that benefits under the agreement are not payable for more than eight weeks during any labor strike, and that such benefits may not be for losses incurred during the first thirty days of any labor strike, and (C) that any party to such agreement will agree to submit the issues causing any labor strike to binding arbitration pursuant to the Railway Labor Act [45 U.S.C. 151 et seq.] if the striking employees request such binding arbitration.

(3) For purposes of this subsection, the term—

(A) "mutual aid agreement" means any contract or agreement between air carriers which provides that any such air carrier will receive payments from the other air carriers which are parties to such contract or agreement for any period during which such air carrier is not engaging in air transportation, or is providing reduced levels of service in air transportation, due to a labor strike; and

(B) "direct operating expenses" includes interest expenses but does not include depreciation or amortization expenses.

(As amended Pub. L. 95-504, §§ 28(a)(2)-(c), 29(a), Oct. 24, 1978, 92 Stat. 1729, 1730.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b), (c)(2)(A), and (d), read in the original, "this Act", meaning Pub. L. 85-726, Aug. 23, 1958, 72 Stat. 731, known as the Federal Aviation Act of 1958. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

The Railway Labor Act, referred to in subsec. (e)(2), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended, which is classified principally to chapter 8 (§ 151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

CODIFICATION

In subsec. (c)(2)(A)(ii), "subtitle IV of this title" was substituted for "the Interstate Commerce Act, as amended" on authority of section 3(b) of Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV (§ 10101 et seq.) of this title.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-504, § 28(a)(2), inserted "foreign" following "or otherwise) affecting".

Subsec. (b). Pub. L. 95-504, § 28(b), inserted "affecting foreign air transportation" following "agreement" wherever appearing.

Subsecs. (c), (d). Pub. L. 95-504, § 28(c), added subsecs. (c) and (d).

Subsec. (e). Pub. L. 95-504, § 29(a), added subsec. (e).

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1371, 1384, 1490, 1551 of this title.

§ 1384. Antitrust exemption

In any order made under section 1378, 1379, or 1382 of this title, the Board may, as part of such order, exempt any person affected by such order from the operations of the "antitrust laws" set forth in subsection (a) of section 12 of title 15 to the extent necessary to enable such person to proceed with the transaction specifically approved by the Board in such order and those transactions necessarily contemplated by such order, except that the Board may not exempt such person unless it determines that such exemption is required in the public interest.

(As amended Pub. L. 95-504, § 30(a), Oct. 24, 1978, 92 Stat. 1731.)

AMENDMENTS

1978—Pub. L. 95-504 substituted provision giving the Board power to exempt any person affected by order of the Board from operations of the antitrust laws, as part of such order, for provision relieving any person affected by any order from operations of the antitrust laws.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1551 of this title.

§ 1385. Inquiry into air carrier management

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1386. Classification and exemption of carriers

[*See main edition for text of* (a)]

(b)(1) Except as provided in paragraph (2) of this subsection, the Board, from time to time and to the extent necessary, may exempt from the requirements of this subchapter or any provision thereof, or any rule, regulation, term, condition, or limitation prescribed thereunder, any person or class of persons if it finds that the exemption is consistent with the public interest. .

[*See main edition for text of* (2)]

(3) The Board may by order relieve foreign air carriers who are not directly engaged in the operation of aircraft in foreign air transportation from the provisions of this chapter to the extent and for such periods as such relief may be in the public interest.

(4) Subject to paragraph (5) of this subsection, any air carrier in air transportation which provides (A) passenger service solely with aircraft having a maximum passenger capacity of less than fifty-six passengers, or (B) cargo service in air transportation solely with aircraft having a maximum payload capacity of less than eighteen thousand pounds, shall be exempt from the requirements of subsection (a) of section 1371 of this title, and of such other sections of this chapter as may be prescribed in regulations promulgated by the Board, if such air carrier conforms to such liability insurance requirements and such other reasonable regulations as the Board shall from time to time adopt in the public interest. The Board may by regulation increase the passenger or property capacities specified in this paragraph when the public interest so requires.

(5) The exemption from section 1371 of this title or any other requirement of this chapter shall not apply to any air transportation by any air carrier between points both of which are in

the State of Alaska, or one of which is in the State of Alaska and the other in Canada, unless such air carrier also holds authority to provide such air transportation from the State of Alaska.

(6) Any air carrier operating within the State of Alaska pursuant to the exemption from section 1371 of this title shall not be subject to any limitation, promulgated by the Board, on the number or location of points to be served by such air carrier, or any limitation on the frequency of service by such air carrier to points within such State, unless the Board, after a hearing, finds that the operation of such air carrier substantially impairs the ability of a certificated air carrier to provide the service authorized by its certificate, including but not limited to, the minimum service requirement for such State specified in section 1389(c)(2) of this title.

(As amended Pub. L. 95-504, §§ 31, 32, Oct. 24, 1978, 92 Stat. 1731, 1732.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(3) to (5), read in the original, "this Act", meaning Pub. L. 85-726, Aug. 23, 1958, 72 Stat. 731, known as the Federal Aviation Act of 1958. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

AMENDMENTS

1978—Subsec. (b)(1). Pub. L. 95-504, § 31(a), revised provisions to speak in terms of persons or classes of persons rather than carriers or groups of carriers and to omit requirement that Board find that enforcement would be an undue burden by reason of unusual circumstances.

Subsec. (b)(3). Pub. L. 95-504, § 31(b), added par. (3).

Subsec. (b)(4) to (6). Pub. L. 95-504, § 32, added pars. (4) to (6).

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1374, 1375, 1388, 1389, 1482a, 1490 of this title; title 39 section 5402.

§ 1387. Special operating authorizations

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1388. Certificate for all-cargo air service

(a) Application

(1) Any citizen of the United States who has a valid certificate issued under section 1371(d)(1) of this title and who provided scheduled all-cargo air service at any time during the period from January 1, 1977, through November 9, 1977, may, during the forty-five-day period which begins on November 9, 1977, submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.

(2) Any citizen of the United States who (A) operates pursuant to an exemption granted by the Board under section 1386 of this title, and (B) provided scheduled all-cargo air service continuously (other than for interruptions caused by labor disputes) during the 12-month period ending on November 9, 1977, or whose predecessor in interest provided such service during such period, may, during the forty-five-day period which begins on November 9, 1977, submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.

(3) Any citizen of the United States who has a valid certificate issued under section 1371(d)(3) of this title and who provided supplemental air transportation carrying only cargo at any time during the period from January 1, 1977, through March 14, 1978, may, during the forty-five day period beginning on April 1, 1978, submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.

(4) After the three hundred and sixty-fifth day which begins after November 9, 1977, any citizen of the United States may submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.

(b) Issuance and revocation of certificate

(1)(A) Not later than sixty days after any application is submitted pursuant to paragraph (1), (2), or (3) of subsection (a) of this section, the Board shall issue a certificate under this section authorizing the all-cargo air service covered by the application.

(B) No later than one hundred and eighty days after any application is submitted pursuant to paragraph (4) of subsection (a) of this section, the Board shall issue a certificate under this section authorizing the whole or any part of the all-cargo air service covered by the application unless it finds that the applicant is not fit, willing, and able to provide such service and to comply with any rules and regulations promulgated by the Board.

(2) Any certificate issued by the Board under this section may contain such reasonable conditions and limitations as the Board deems necessary, except that such terms and conditions shall not restrict the points which may be served, or the rates which may be charged, by the holder of such certificate.

(3) Notwithstanding any other provision of this section, no certificate issued by the Board under this section shall authorize all-cargo air service between any pair of points both of which are within the State of Alaska or the State of Hawaii.

(4) If any all-cargo air service authorized by a certificate issued under this subsection is not performed to the minimum extent prescribed by the Board, it may by order, entered after notice and opportunity for a hearing, direct that such certificate shall, thereafter, cease to be effective to the extent of such service.

(c) Exemptions

Any applicant who is issued a certificate under this section shall, with respect to any all-cargo air service provided in accordance with such certificate, be exempt from the requirements of section 1371(a) of this title, and any other section of this chapter which the Board by rule determines appropriate, and any rule, regulation, or procedure issued pursuant to any such section.

(d) Air carrier status

Any applicant who is issued a certificate under this section shall be an air carrier for the purposes of this chapter, except to the extent such carrier is exempt from any requirement of this chapter pursuant to this section.

(Pub. L. 85-726, title IV, § 418, as added Pub. L. 95-163, § 17(a), Nov. 9, 1977, 91 Stat. 1284, and amended Pub. L. 95-245, §§ 1-3, Mar. 14, 1978, 92 Stat. 156.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (c) and (d), read in the original, "this Act", meaning Pub. L. 85-726, Aug. 23, 1958, 72 Stat. 731, known as the Federal Aviation Act of 1958. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-245, § 1, added par. (3). Former par. (3) was redesignated as (4).

Subsec. (b)(1)(A). Pub. L. 95-245, § 2, added reference to par. (3) of subsec. (a) of this section.

Subsec. (b)(1)(B). Pub. L. 95-245, § 3, substituted "(4)" for "(3)".

EFFECTIVE DATE OF 1978 AMENDMENT

Section 4 of Pub. L. 95-245 provided that: "The provisions of this Act [amending this section] shall become effective on April 1, 1978."

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1389. Small community air service

(a) Guaranteed essential air transportation

(1) For purposes of this subsection, the term "eligible point" means any point in the United States to which, on October 24, 1978, any air carrier—

(A) is providing service pursuant to a certificate issued to such carrier under section 1371 of this title; or

(B) is authorized pursuant to such certificate to provide such service, but such service is suspended on October 24, 1978.

(2)(A) With respect to each eligible point which on October 24, 1978 is served by not more than one air carrier holding a certificate issued under section 1371 of this title, not later than the last day of the one-year period beginning on October 24, 1978, the Board, after considering the views of any interested community and the State agency of the State in which such community is located, shall determine what is essential air transportation for such point.

(B) With respect to any eligible point which on October 24, 1978, is served by more than one air carrier holding a certificate issued under section 1371 of this title and which thereafter receives service by not more than one such air carrier, not later than the last day of the six-month period beginning on the date on which the Board receives notice that service to such point will be provided by not more than one such air carrier, the Board, after considering the views of any interested community and the State agency of the State in which such community is located, shall determine what is essential air transportation to such point.

(C) The Board shall periodically review the determination of what is essential air transportation to each eligible point, and may, based upon such review and consultations with any interested community and the State agency of the State in which such community is located, make appropriate adjustments as to what is essential air transportation to such point.

(3) No air carrier shall terminate, suspend, or reduce air transportation to any eligible point below the level of essential air transportation established by the Board under paragraph (2) unless such air carrier—

(A) if such air carrier—

(i) holds a certificate issued under section 1371 of this title, or

(ii) does not hold such a certificate, but is receiving compensation pursuant to paragraph (5) of this subsection for service to such eligible point,

has given the Board, the appropriate State agency or agencies, and the communities affected at least ninety days notice prior to such termination, suspension, or reduction; and

(B) if such air carrier does not hold such a certificate and is not receiving compensation pursuant to paragraph (5) of this subsection for service to such eligible point, has given the Board, the appropriate State agency or agencies, and the communities affected at least thirty days notice prior to such termination, suspension, or reduction.

(4) Whenever the Board determines that essential air transportation will not be provided to any eligible point without compensation—

(A) the Board shall provide notice that applications may be submitted by any air carrier which is willing to provide essential air transportation to such point for compensation under this subsection. In selecting an applicant to provide essential air transportation to such point for compensation the Board shall, among other factors, specifically consider—

(i) the desirability of developing an integrated linear system of air transportation whenever such a system most adequately

meets the air transportation needs of the communities involved;

(ii) the experience of the applicant in providing scheduled air service in the vicinity of the communities for which essential air transportation is proposed to be provided; and

(iii) notwithstanding the provisions of clause (ii), with respect to any eligible point in the State of Alaska, the experience of an applicant in providing scheduled air service, or significant patterns of nonscheduled air service pursuant to an exemption granted pursuant to section 1386 of this title, in Alaska; and

(B) the Board shall establish, in accordance with the guidelines promulgated under subsection (d) of this section, a rate of compensation to be paid for providing such essential air transportation.

(5) The Board shall make payments of compensation under this subsection at times and in a manner determined by the Board to be appropriate. The Board shall continue to pay compensation to any air carrier to provide essential air transportation to any eligible point only for so long as the Board determines it is necessary in order to maintain essential air transportation to such eligible point.

(6) Notwithstanding section 1371(j) of this title, if an air carrier has provided notice to the Board under paragraph (3) of such air carrier's intention to suspend, terminate, or reduce service to any eligible point below the level of essential air transportation to such point, and if at the conclusion of the applicable period of notice the Board has not been able to find another air carrier to provide essential air transportation to such point, the Board shall require the carrier which provided such notice to continue such service to such point for an additional 30-day period, or until another air carrier has begun to provide essential air transportation to such point, whichever first occurs. If at the end of such 30-day period the Board determines that no other air carrier can be secured to provide essential air transportation to such eligible point on a continuing basis, either with or without compensation, then the Board shall extend such requirement for such additional 30-day periods (making the same determination at the end of each such period) as may be necessary to continue air transportation to such eligible point until an air carrier can be secured to provide essential air transportation to such eligible point on a continuing basis.

(7)(A) If any air carrier (i) which is providing air transportation to any eligible point, and (ii) which is receiving compensation under this subsection or under section 1376 of this title for providing such air transportation to such point, is required by the Board to continue service to such point beyond the date on which such air carrier would, but for paragraph (6) of this subsection, be able to suspend, terminate, or reduce service to such point below the level of essential air transportation to such point, then after such date such air carrier shall continue to receive such compensation until the Board finds another air carrier to provide essential air transportation to such point.

(B) If the Board requires an air carrier which holds a certificate issued under section 1371 of this title and which is providing air transportation to any eligible point without compensation pursuant to paragraph (5) of this subsection or section 1376 of this title to continue to provide essential air transportation to such point beyond the 90-day notice period after which, but for paragraph (6) of this subsection, such air carrier would be able to suspend, terminate, or reduce service to such point below essential air transportation for such point, then the Board shall compensate such air carrier for any losses that the air carrier incurs in complying with this subparagraph after the last day of such 90-day period, except that the Board shall not make any payments under this subparagraph, to any trunk air carrier for service to such point after the last day of the one-year period beginning on the date on which any payment is made to such air carrier under this subparagraph for service to such point.

(C) If the Board requires an air carrier which does not hold a certificate issued under section 1371 of this title, but which is providing air transportation to any eligible point without compensation pursuant to paragraph (5) of this subsection or section 1376 of this title to continue to provide essential air transportation to such point beyond the 30-day notice period after which, but for paragraph (6) of this subsection, such air carrier would be able to suspend, terminate, or reduce service to such point below essential air transportation for such point, then the Board shall compensate such air carrier for any losses that such air carrier incurs in complying with this paragraph after the last day of such 30-day period.

(9) [1]During any period for which the Board requires any air carrier to continue providing air transportation to an eligible point which such air carrier has proposed to terminate, reduce, or suspend, the Board shall continue to make every effort to secure an air carrier to provide at least essential air transportation to such eligible point, on a continuing basis.

(10) Unless the Board has determined what is essential air transportation for any eligible point pursuant to paragraph (2) of this subsection, the Board shall, upon petition of any appropriate representative of such point, prohibit any termination, suspension, or reduction of air transportation which reasonably appears to deprive such point of essential air transportation, until the Board has completed such determination.

(11)(A) After January 1, 1983, any air carrier may file an application with the Board seeking to have any compensation provided under section 1376 of this title to the air carrier then serving an eligible point terminated in order to allow the applicant air carrier to provide air transportation to that eligible point for compensation under this section. The Board shall grant such application, after notice and a hearing if requested by the air carrier receiving subsidy under section 1376, taking into consideration the objectives specified in subparagraphs (A)(i) and (ii) of paragraph (5)[2] of this subsec-

[1] So in original. No par. (8) was enacted.

[2] So in original. Probably should be "paragraph (4)".

tion, if the applicant can show that termination of the compensation being paid under section 1376 and that the provision of service by such applicant with compensation under this section, will result in a substantial—

(i) improvement in the air service being provided such eligible point; and

(ii) decrease in the amount of compensation that will be required to continue essential air transportation to such eligible point.

(B) After January 1, 1983, any air carrier may file an application with the Board seeking to have the compensation provided under this section to the air carrier then serving an eligible point, and which has been serving such eligible point for at least two years preceding the date on which such application is filed, terminated in order to allow the applicant air carrier to provide essential air transportation to such eligible point for compensation under this section. The Board shall grant such application, after notice and a hearing if requested by an air carrier receiving compensation under this section, taking into consideration the objectives specified in subparagraphs (A)(i) and (ii) of paragraph (4) of this subsection, if the applicant air carrier can show that termination of the compensation being provided to the air carrier then serving such eligible point, and the provision of essential air transportation for compensation under this section by the applicant air carrier will result in a substantial—

(i) improvement in the air transportation being provided such eligible point with no increase in the amount of compensation then being paid; or

(ii) decrease in the amount of compensation that will be required to continue essential air transportation to that eligible point.

(C) In disposing of each application filed under this subsection, the Board shall, in addition to considering the objectives specified in subparagraphs (A)(i) and (ii) of paragraph (4), solicit and give great weight to the opinions of the communities affected by the proposed replacement of an air carrier under this subsection.

(b) Other air service

(1) For purposes of this subsection, the term "eligible point" means—

(A) any point in the United States which has been deleted from a certificate issued under section 1371 of this title between July 1, 1968, and October 24, 1978, both dates inclusive, and which the Board designates pursuant to paragraph (2) of this subsection; and

(B) any other point in the State of Alaska or Hawaii designated by the Board under paragraph (2) of this subsection.

(2)(A) Not later than January 1, 1980, after considering the views of State agencies and other interested parties, the Board shall, by rule, establish objective criteria for designating points as eligible points. In establishing or modifying such criteria, the Board shall consider, among other factors, the level of traffic generated by the point concerned, its future traffic generating potential, the cost to the Federal Government of providing essential air transportation to such point, the alternative means of transportation available to the residents of such point for access to the national transportation system and its principal communities of interest, and the degree of isolation of such point from the national air transportation system. The Board may, from time to time, by rule, modify the criteria established by it under this subparagraph.

(B) Not later than January 1, 1980, the Board shall begin to review each point described in paragraph (1)(A) of this subsection to determine whether such point shall be designated as an eligible point under the criteria established under subparagraph (B)[1] of this paragraph. The review and designation of each such point shall be completed before January 1, 1982.

(C) On or after January 1, 1982, the Board, upon application by any interested party, may designate any point an eligible point under the criteria established under subparagraph (B)[1] of this paragraph (i) if such point is in the State of Alaska or the State of Hawaii, and (ii) if such designation would not increase the total number of points receiving a subsidy under this section and section 1376 of this title above the total number of points receiving a subsidy under such section 1376 of this title on July 1, 1968.

(3) The designation of any point by the Board under paragraph (2) of this subsection as an eligible point may be withdrawn if the point no longer meets the criteria for designation as an eligible point.

(4)(A) With respect to any point which the Board designates as an eligible point pursuant to paragraph (2) of this subsection, not later than the last day of the six-month period beginning on the date on which the Board makes such designation, the Board, after considering the views of any interested community and the State agency of the State in which such community is located, shall determine what is essential air transportation to such point.

(B) The Board shall periodically review the determination of what is essential air transportation to each eligible point, and may, based upon such review and consultations with any interested community and any State agency of the State in which such community is located, make appropriate adjustments as to what is essential air transportation to such point.

(5) Whenever the Board determines that essential air transportation will not be provided to any eligible point without compensation—

(A) the Board shall provide notice that applications may be submitted by any air carrier which is willing to provide essential air transportation to such point for compensation under this subsection. In selecting an applicant to provide essential air transportation to such point for compensation, the Board shall, among other factors, specifically consider—

(i) the desirability of developing an integrated linear system of air transportation whenever such a system most adequately meets the air transportation needs of the communities involved;

(ii) the experience of the applicant in providing scheduled air service in the vicinity

[1] So in original. Probably should be "(A)".

of the communities for which essential air transportation is proposed to be provided; and

(iii) notwithstanding the provisions of clause (ii), with respect to any eligible point in the State of Alaska, the experience of an applicant in providing scheduled air service, or significant patterns of nonscheduled air service pursuant to an exemption granted pursuant to section 1386 of this title, in Alaska; and

(B) the Board shall establish, in accordance with the guidelines promulgated under subsection (d) of this section, a rate of compensation to be paid for providing such essential air transportation.

(6) The Board shall make payments of compensation under this subsection at times and in a manner determined by the Board to be appropriate. The Board shall continue to pay compensation to any air carrier to provide essential air transportation to any eligible point only for so long as the Board determines it is necessary in order to maintain essential air transportation to such eligible point.

(7) Prior to terminating, suspending, or reducing essential air transportation to any eligible point, an air carrier—

(A) if such air carrier—

(i) holds a certificate issued under section 1371 of this title, or

(ii) does not hold such a certificate, but is receiving compensation pursuant to paragraph (6) of this subsection for service to such eligible point, shall give the Board, the appropriate State agency or agencies, and the communities affected at least ninety days notice prior to such termination, suspension, or reduction; and

(B) if such air carrier does not hold such a certificate and is not receiving compensation pursuant to paragraph (6) of this subsection for service to such eligible point, shall give the Board, the appropriate State agency or agencies, and the communities affected such notice (not to exceed 30 days), as the Board shall by regulation prescribe.

(8)(A) After January 1, 1983, any air carrier may file an application with the Board seeking to have the compensation provided under this subsection to the air carrier than serving an eligible point, and which has been serving such eligible point for at least 2 years preceding the date on which such application is filed, terminated in order to allow the applicant air carrier to provide essential air transportation to such eligible point for compensation under this subsection. The Board shall grant such application, after notice and a hearing if requested by an air carrier receiving compensation under this section, taking into consideration the objectives specified in subparagraphs (A)(i) and (ii) of paragraph (5) of this subsection, if the applicant can show that termination of the compensation being provided to the air carrier then serving such eligible point, and that the provision of essential air transportation for compensation under this subsection by the applicant, will result in a substantial—

(i) improvement in the air transportation being provided such eligible point with no increase in the amount of compensation then being paid; or

(ii) decrease in the amount of compensation that will be required to continue essential air transportation to that eligible point.

(B) In disposing of each application filed under this paragraph, the Board shall, in addition to considering the objectives specified in subparagraphs (A)(i) and (ii) of paragraph (5), solicit and give great weight to the opinions of the communities affected by the proposed replacement of an air carrier under this subsection.

(c) Level of safety

(1) For purposes of this subsection the term "commuter air carrier" means an air carrier exempt from any requirement of this chapter under section 1386(b)(3)[1] of this title.

(2) Notwithstanding section 1386(b) of this title, the Board shall not provide any compensation under this section to any commuter air carrier to provide service to any eligible point, and the Board shall prohibit any commuter air carrier from providing service to any eligible point, unless the Board determines that such commuter air carrier—

(A) is fit, willing, and able to perform such service; and

(B) that all aircraft which will be used to perform such service and all operations relating to such service will conform to the safety standards established by the Administrator under paragraph (3) of this subsection.

(3) Not later than the one-hundred-eightieth day after October 24, 1978, the Administrator, by regulation, shall establish safety standards (A) for aircraft being used by commuter air carriers to provide any service described in paragraph (2) of this subsection, and (B) for all operations relating to such service. Such safety standards shall become effective not later than the last day of the eighteenth month which begins after October 24, 1978 and shall impose requirements upon such commuter air carriers to assure that the level of safety provided to persons traveling on such commuter air carriers is, to the maximum feasible extent, equivalent to the level of safety provided to persons traveling on air carriers which provide service pursuant to certificates issued under section 1371 of this title.

(d) Guidelines for compensation

The Board shall, by rule, establish guidelines to be used by the Board in computing the fair and reasonable amount of compensation required to insure the continuation of essential air transportation to any eligible point. Such guidelines shall include expense elements based upon representative costs of air carriers providing scheduled air transportation of persons, property, and mail, using aircraft of the type determined by the Board to be appropriate for providing essential air transportation to the eligible point.

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[1] So in original. Probably should be "(b)(4)".

(e) Insurance

No air carrier shall receive any compensation under this section unless such air carrier complies with regulations or orders issued by the Board governing the filing and approval of policies of insurance or plans for self-insurance in the amount prescribed by the Board which are conditioned to pay, within the amount of such insurance, amounts for which such air carrier may become liable for bodily injuries to or the death of any person, or for loss of or damage to property of others, resulting from the operation or maintenance of aircraft.

(f) Definition

For purposes of this section, the term "essential air transportation" means scheduled air transportation of persons to a point provided under such criteria as the Board determines satisfies the needs of the community concerned for air transportation to one or more communities of interest and insures access to the Nation's air transportation system, at rates, fares, and charges which are not unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial, and—

(1) with respect to air transportation to any point (other than in the State of Alaska), in no case shall essential air transportation be specified as fewer than two daily round trips, 5 days per week, or the level of service provided by air carriers to such point based on the schedules of such air carriers in effect for calendar year 1977, whichever is less; and

(2) with respect to air transportation to any point in Alaska, essential air transportation shall not be specified at a level of service less than that which existed for such point during calendar year 1976, or two round trips per week, whichever is greater, unless otherwise specified under an agreement between the Board and the State agency of the State of Alaska, after consultation with the community affected.

(g) Duration of program

This section shall cease to be in effect after the last day of the ten-year period which begins on October 24, 1978.

(Pub. L. 85-726, title IV, § 419, as added Pub. L. 95-504, § 33(a), Oct. 24, 1978, 92 Stat. 1732.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(1), read in the original, "this Act", meaning Pub. L. 85-726, Aug. 23, 1958, 72 Stat. 731, known as the Federal Aviation Act of 1958. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1376, 1386, 1551 of this title.

SUBCHAPTER V—NATIONALITY AND OWNERSHIP OF AIRCRAFT

§ 1401. Registration of aircraft nationality

[*See main edition for text of* (a)]

(b) Eligibility for registration

An aircraft shall be eligible for registration if, but only if—

(1)(A) it is—

(i) owned by a citizen of the United States or by an individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States; or

(ii) owned by a corporation (other than a corporation which is a citizen of the United States) lawfully organized and doing business under the laws of the United States or any State thereof so long as such aircraft is based and primarily used in the United States; and

(B) it is not registered under the laws of any foreign country; or

(2) it is an aircraft of the Federal Government, or of a State, territory, or possession of the United States or the District of Columbia or a political subdivision thereof.

For purposes of this subsection, the Secretary of Transportation shall, by regulation, define the term "based and primarily used in the United States".

[*See main edition for text of* (c) *to* (f)]

(As amended Pub. L. 95-163, § 14, Nov. 9, 1977, 91 Stat. 1283; Pub. L. 95-241, Mar. 8, 1978, 92 Stat. 119.)

AMENDMENTS

1978—Subsec. (b)(1)(A)(i). Pub. L. 95-241, § 1(a), struck out "(other than a corporation)" preceding "or by".

Subsec. (b)(1)(A)(ii). Pub. L. 95-241, § 1(b), added "(other than a corporation which is a citizen of the United States)" following "corporation".

1977—Subsec. (b). Pub. L. 95-163 added provisions drawing a distinction between ownership by a citizen of the United States or by an individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States and ownership by a corporation lawfully organized and doing business under the laws of the United States or any State thereof so long as such aircraft is based and primarily used in the United States and added provisions directing the Secretary of Transportation to define, by regulation, the term "based and primarily used in the United States".

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

§§ 1402, 1403

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chap-

ter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

§ 1405. Dealers' aircraft registration certificates

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

SUBCHAPTER VI—SAFETY REGULATION OF CIVIL AERONAUTICS

§ 1421. Powers and duties of Secretary of Transportation

[See main edition for text of (a) to (c)]

(d) Installation of emergency locator transmitters; aircraft subject to coverage

(1) Except with respect to aircraft described in paragraph (2) of this subsection and except as provided in paragraph (3) of this subsection, minimum standards pursuant to this section shall include a requirement that emergency locator transmitters shall be installed—

(A) on any fixed-wing, powered civil aircraft for use in air commerce the manufacture of which is completed, or which is imported into the United States, after one year following January 2, 1974; and

(B) on any fixed-wing, powered civil aircraft used in air commerce after three years and six months following such date.

[See main edition for text of (2)]

(3) The Administrator shall issue regulations which permit, subject to such limitations and conditions as he prescribes in such regulations, the operation of any aircraft equipped with an emergency locator transmitter during any period for which such transmitter has been removed from such aircraft for inspection, repair, modification, or replacement.

(e) Aviation fuel standards; establishment, implementation and enforcement

The Secretary of Transportation shall prescribe, and from time to time revise, regulations (1) establishing standards governing the composition or the chemical or physical properties of any aircraft fuel or fuel additive for the purpose of controlling or eliminating aircraft emissions which the Administrator of the Environmental Protection Agency (pursuant to section 7571 of title 42) determines endanger the public health or welfare, and (2) providing for the implementation and enforcement of such standards.

(As amended Pub. L. 95-163, § 15(a), (b)(1), Nov. 9, 1977, 91 Stat. 1283.)

REFERENCES TO SUBSECTION (d)

Section 15(b)(2) of Pub. L. 95-163 provided that: "Any reference to such relettered subsection (e) [resulting from the redesignation by Pub. L. 95-163 of former subsec. (d) relating to aviation fuel standards as subsec. (e)] shall be relettered accordingly."

AMENDMENTS

1977—Subsec. (d)(1). Pub. L. 95-163, § 15(a)(1), added reference to the exception provided in par. (3) of subsec. (d).

Subsec. (d)(3). Pub. L. 95-163, § 15(a)(2), added par. (3).

Subsec. (e). Pub. L. 95-163, § 15(b)(1), redesignated as subsec. (e) provisions relating to the establishment, implementation, and enforcement of aviation fuel standards thereby correcting a situation in which the provisions relating to aviation fuel standards and the provisions relating to emergency locator beacons had both been designated subsec. (d).

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

STUDY OF AGE OF PILOTS, ETC., AS RELATED TO PERFORMANCE SUITABILITY; REPORT TO CONGRESS; APPROPRIATIONS

Pub. L. 96-171, Dec. 29, 1979, 93 Stat. 1285, provided: "That the Director of the National Institutes of Health, in consultation with the Secretary of Transportation, shall conduct a study to determine—

"(1) whether an age limitation which prohibits all individuals who are sixty years of age or older from serving as pilots is medically warranted;

"(2) whether an age limitation which prohibits all individuals who are older than a particular age from serving as pilots is medically warranted;

"(3) whether rules governing eligibility for first- and second-class medical certification, as set forth in part 67 of title 14 of the Code of Federal Regulations (as in effect on the date of enactment of this Act) [Dec. 29, 1979], are adequate to determine an individual's physical condition in light of existing medical technology;

"(4) whether rules governing the frequency of first- and second-class medical examinations, as set forth in part 67 of title 14 of the Code of Federal Regulations (as in effect on the date of enactment of this Act [Dec. 29, 1979]), are adequate to assure that an individual's physical condition is being satisfactorily monitored; and

"(5) the effect of aging on the ability of individuals to perform the duties of pilots with the highest level of safety.

The Director shall complete such study and submit a report of the results thereof to Congress within one year after the date of enactment of this Act [Dec. 29, 1979]. In conducting such study the Director shall utilize all available studies and data which are relevant to such study.

"SEC. 2. No funds are authorized to be appropriated for the fiscal year commencing October 1, 1979, in addition to funds otherwise available to carry out the study described in section 1 of this Act."

§§ 1422 to 1429

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

§ 1430. Violations; exemption of foreign aircraft and airmen

(a) It shall be unlawful—

[*See main edition for text of (1) to (8)*]

(9) For any person to manufacture, deliver, sell, or offer for sale, any aviation fuel or fuel additive in violation of any regulation prescribed under section 1421(e) of this title.

[*See main edition for text of (b)*]

(As amended Pub. L. 95-163, § 15(b)(2), Nov. 9, 1977, 91 Stat. 1283.)

AMENDMENTS

1977—Subsec. (a)(9). Pub. L. 95-163 substituted "section 1421(e)" for "section 1421(d)".

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

§ 1431. Control and abatement of aircraft noise and sonic boom

[*See main edition for text of (a) and (b)*]

(c) Submission of proposed regulations to FAA by EPA; publication; hearing; review of prescribed regulations; report and supplemental report

(1) Not earlier than the date of submission of the report required by section 4906 of title 42, EPA shall submit to the FAA proposed regulations to provide such control and abatement of aircraft noise and sonic boom (including control and abatement through the exercise of any of the FAA's regulatory authority over air commerce or transportation or over aircraft or airport operations) as EPA determines is necessary to protect the public health and welfare. The FAA shall consider such proposed regulations submitted by EPA under this paragraph and shall, within thirty days of the date of its submission to the FAA, publish the proposed regulations in a notice of proposed rulemaking. Within sixty days after such publication, the FAA shall commence a hearing at which interested persons shall be afforded an opportunity for oral (as well as written) presentations of data, views, and arguments. Within ninety days after the conclusion of such hearing and after consultation with EPA, the FAA shall—

(A) in accordance with subsection (b) of this section, prescribe regulations (i) substantially as they were submitted by EPA, or (ii) which are a modification of the proposed regulations submitted by EPA, or

(B) publish in the Federal Register a notice that it is not prescribing any regulation in response to EPA's submission of proposed regulations, together with a detailed explanation providing reasons for the decision not to prescribe such regulations and a detailed analysis of and response to all documentation or other information submitted by the Environmental Protection Agency with such proposed regulations.

[*See main edition for text of (2) and (3); (d) and (e)*]

(As amended Pub. L. 95-609, § 3, Nov. 8, 1978, 92 Stat. 3080.)

AMENDMENTS

1978—Subsec. (c)(1). Pub. L. 95-609 substituted in text preceding subpar. (A) "ninety days" for "a reasonable time" and in subpar. (B) added provision relating to the publication of a detailed analysis of information submitted.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

JOINT STUDY OF AIRCRAFT NOISE EFFECTS

Section 8 of Pub. L. 95-609 provided that:

"(a) The Secretary of Transportation and the Administrator of the Environmental Protection Agency shall jointly study the aircraft noise effects from an airport on communities located in a State other than the State in which the airport is located. The criteria to be used in selecting the airport to be studied shall include:

"(1) the airport shall be operated by a State, a unit of general purpose local government of a State, or a special purpose entity constituted for the purpose of operating an airport, and

"(2) the airport shall have a point on the airport boundary within one nautical mile from a State boundary, and

"(3) the airport shall have had in excess of sixty thousand scheduled air carrier departures during the preceding calendar year.

"(b) The study shall be conducted in cooperation with the airport operator, appropriate Federal, State, and local officials, and the appropriate Metropolitan Planning Organization.

"(c) The Secretary and the Administrator shall prepare and submit to Congress a report within nine months of the conclusion of the study, but no later than twenty-four months after enactment of this section [Nov. 8, 1978]."

SUBCHAPTER VII—AIRCRAFT ACCIDENT INVESTIGATION

§§ 1441, 1442

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

SUBCHAPTER VIII—OTHER ADMINISTRATIVE AGENCIES

§ 1461. President of United States; suspension and rejection of rates in foreign air transportation

(a) The issuance, denial, transfer, amendment, cancellation, suspension, or revocation of,

and the terms, conditions, and limitations contained in, any certificate authorizing an air carrier to engage in foreign air transportation, or any permit issuable to any foreign air carrier under section 1372 of this title, shall be presented to the President for review. The President shall have the right to disapprove any such Board action concerning such certificates or permits solely upon the basis of foreign relations or national defense considerations which are within the President's jurisdiction, but not upon the basis of economic or carrier selection considerations. Any such disapproval shall be issued in a public document, setting forth the reasons for the disapproval to the extent national security permits, within sixty days after submission of the Board's action to the President. Any such Board action so disapproved shall be null and void. Any such Board action not disapproved within the foregoing time limits shall take effect as action of the Board, not the President, and as such shall be subject to judicial review as provided in section 1486 of this title.

[*See main edition for text of (b)*]

(As amended Pub. L. 95-504, § 34, Oct. 24, 1978, 92 Stat. 1740.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-504 struck out provision relating to air transportation between places in the same Territory or possession and relating to copies of particular applications and added provisions relating to Presidential rights and duties.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1371, 1486, 1551 of this title.

§ 1462. The Department of State

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1463. Weather Service

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

SUBCHAPTER IX—PENALTIES

§ 1471. Civil penalties; notice and hearing; compromise; liens

(a)(1) Any person who violates (A) any provision of subchapter III, IV, V, VI, VII, or XII of this chapter or of section 1514 of this title or any rule, regulation, or order issued thereunder, or under section 1482(i) of this title, or any term, condition, or limitation of any permit or certificate issued under subchapter IV of this chapter, or (B) any rule or regulation issued by the Postmaster General under this chapter, shall be subject to a civil penalty of not to exceed $1,000 for each such violation, except that the amount of such civil penalty shall not exceed $10,000 for each such violation which relates to the transportation of hazardous materials. If such violation is a continuing one, each day of such violation shall constitute a separate offense. The amount of any such civil penalty which relates to the transportation of hazardous materials shall be assessed by the Secretary, or his delegate, upon written notice upon a finding of violation by the Secretary, after notice and an opportunity for a hearing. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require. The amount of any such civil penalty for any violation of any provision of subchapter IV of this chapter, or any rule, regulation, or order issued thereunder, or under section 1482(i) of this title, or any term, condition, or limitation of any permit or certificate issued under subchapter IV of this chapter shall be assessed by the Board only after notice and an opportunity for a hearing and after written notice upon a finding of violation by the Board. Judicial review of any order of the Board assessing such a penalty may be obtained only pursuant to section 1486 of this title. This subsection shall not apply to members of the Armed Forces of the United States, or those civilian employees of the Department of Defense who are subject to the provisions of the Uniform Code of Military Justice, while engaged in the performance of their official duties; and the appropriate military authorities shall be responsible for taking any necessary disciplinary action with respect thereto and for making to the Secretary of Transportation or Board, as appropriate, a timely report of any such action taken.

(2) Any civil penalty may be compromised by the Secretary of Transportation in the case of violations of subchapters III, V, VI, or XII of this chapter, or any rule, regulation, or order issued thereunder, or by the National Transportation Safety Board in the case of violations

of subchapter VII of this chapter or any rule, regulation, or order issued thereunder, or by the Postmaster General in the case of regulations issued by him. The amount of such penalty when finally determined or fixed by order of the Board, or the amount agreed upon in compromise, may be deducted from any sums which the United States owes to the person charged.

[*See main edition for text of* (b)]

(As amended Pub. L. 95-504, § 35, Oct. 24, 1978, 92 Stat. 1740.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-504 inserted provision authorizing the assessment of civil penalties by the Board substituted "Secretary of Transportation" for "Administrator" wherever appearing, and in par. 2, deleted references to subchapter IV.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

NATIONAL TRANSPORTATION SAFETY BOARD

The National Transportation Safety Board originally established within the Department of Transportation was constituted an independent agency of the United States on and after Apr. 1, 1975, see section 1902 of this title.

§ 1472. Criminal penalties

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1473. Venue and prosecution of offenses; procedures in respect of civil and aircraft piracy penalties

[*See main edition for text of* (a)]

(b) Procedures in respect of civil penalties

(1) Any civil penalty imposed or assessed under this chapter may be collected by proceedings in personam against the person subject to the penalty and, in case the penalty is a lien, by proceedings in rem against the aircraft, or by either method alone. Such proceedings shall conform as nearly as may be to civil suits in admiralty, except that with respect to proceedings involving penalties other than those assessed by the Board, either party may demand trial by jury of any issue of fact, if the value in controversy exceeds $20, and the facts so tried shall not be reexamined other than in accordance with the rules of the common law. The fact that in a libel in rem the seizure is made at a place not upon the high seas or navigable waters of the United States shall not be held in any way to limit the requirement of the conformity of the proceedings to civil suits in rem in admiralty.

[*See main edition for text of* (2) *to* (4); (c)]

(As amended Pub. L. 95-504, § 36, Oct. 24, 1978, 92 Stat. 1741.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-504 added provisions for penalties assessed by the Board.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

SUBCHAPTER X—PROCEDURE

§ 1481. Conduct of proceedings

The Board and the Secretary of Transportation, subject to the provisions of this chapter and subchapter II of chapter 5, and chapter 7, of title 5, may conduct their proceedings in such manner as will be conducive to the proper dispatch of business and to the ends of justice. No member of the Board or the Secretary of Transportation shall participate in any hearing or proceeding in which he has a pecuniary interest. Any person may appear before the Board or the Secretary of Transportation and be heard in person or by attorney. The Board, in its discretion, may enter its appearance and participate as an interested party in any proceeding conducted by the Secretary of Transportation under subchapter III of this chapter, and in any proceeding conducted by the Secretary of Transportation under subchapter VI of this chapter from which no appeal is provided to the National Transportation Safety Board. Every vote and official act of the Board and the Secretary of Transportation shall be entered of record, and the proceedings thereof shall be open to the public upon request of any interested party, unless the Board or the Secretary of Transportation determines that secrecy is requisite on grounds of national defense.

(Pub. L. 85-726, title X, § 1001, Aug. 23, 1958, 72 Stat. 788; Pub. L. 89-670, § 6(c)(1), Oct. 15, 1966, 80 Stat. 937.)

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

"National Transportation Safety Board" was substituted for "Board" at the end of the fourth sentence on authority of section 1655(d) of this title, which transferred all functions, duties, and powers of the Civil Aeronautics Board under subchapter VI of this chapter to the Secretary of Transportation to be carried out through the National Transportation Safety Board in the Department of Transportation. Sections 1422, 1429, and 1431(e) of subchapter VI of this chapter were the sections that provided for appeals to the Civil Aeronautics Board. Section 1902 of this title provided that the National Transportation Safety Board, previously established within the Department of Transportation, shall be an independent agency of the United States. Section 1903(a)(9) of this title gave the independent Safety Board the authority to review appeals from actions of the Secretary of Transportation under sections 1422, 1429, and 1431(e) of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1482. Complaints to and investigations by Secretary of Transportation and Board

[*See main edition for text of* (a) *to* (c)]

(d) Power to prescribe rates and practices of air carriers

(1) Except as provided in paragraph (2) or (4) of this subsection, whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate, fare, or charge demanded, charged, collected or received by any air carrier for interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii, or overseas air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board shall determine and prescribe the lawful rate, fare, or charge (or the maximum or minimum, or the maximum and minimum thereof) thereafter to be demanded, charged, collected, or received, or the lawful classification, rule, regulation, or practice thereafter to be made effective.

(2) With respect to rates, fares, and charges for overseas air transportation, the Board shall determine and prescribe only a just and reasonable maximum or minimum, or maximum and minimum rate, fare, or charge.

(3) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate or charge demanded, charged, collected, or received by any air carrier for interstate air transportation of property or any classification, rule, regulation, or practice affecting such rate or charge, or the value of the service thereunder, is or will be unjustly discriminatory, or unduly preferential, or unduly prejudicial, or predatory the Board shall alter such rate, charge, classification, rule, regulation, or practice to the extent necessary to correct such discrimination, preference, prejudice, or predatory practice and make an order that the air carrier or foreign air carrier shall discontinue demanding, charging, collecting, or receiving any such discriminatory, preferential, prejudicial, or predatory rate or charge or enforcing any such discriminatory, preferential, prejudicial, or predatory classification, rule, regulation, or practice.

(4) The Board shall not have authority to find any fare for interstate or overseas air transportation of persons to be unjust or unreasonable on the basis that such fare is too low or too high if—

(A) with respect to any proposed increase filed with the Board on or after July 1, 1979 (other than any proposed increase in any fare filed by any air carrier if such proposed fare is for air transportation between any pair of points and such air carrier provides air transportation to 70 per centum or more of the persons traveling in air transportation between such points on aircraft operated by air carriers with certificates issued under section 1371 of this title), such proposed fare would not be more than 5 per centum higher than the standard industry fare level for the same or essentially similar class of service, except that, while no increase of any fare within the limits specified in this subparagraph may be suspended, an increase in such fare, above the standard industry fare level shall be found unlawful if that increase results in a fare which is unduly preferential, unduly prejudicial, or unjustly discriminatory; or

(B) with respect to any proposed decrease filed after October 24, 1978, the proposed fare would not be more than 50 per centum lower than the standard industry fare level for the same or essentially similar class of service, except that this provision shall not apply to any proposed decrease in any fare if the Board determines that such proposed fare would be predatory.

In determining whether any fare for air transportation of persons is unjust or unreasonable on the basis that it is too high, the Board shall take into consideration reasonably estimated or foreseeable future costs and revenues for a reasonably limited future period during which the fare at issue would be in effect.

(5) In any Board proceeding under paragraph (1) of this subsection with respect to interstate or overseas air transportation of persons, the party opposing any fare or charge on the basis that it is too low shall have the burden of proving that the fare or charge is too low.

(6)(A) For purposes of paragraph (4) of this section, "standard industry fare level" means the fare level (as adjusted only in accordance

with subparagraph (B) of this paragraph) in effect on July 1, 1977, for each interstate or overseas pair of points, for each class of service existing on that date, and in effect on the effective date of the establishment of each additional class of service established after July 1, 1977.

(B) The Board shall, not less than semiannually, adjust each standard industry fare level specified in subparagraph (A) by increasing or decreasing such fare level, as the case may be, by the percentage change from the last previous period in the actual operating cost per available seat-mile for interstate and overseas transportation combined. In determining the standard, the Board shall make no adjustment to costs actually incurred.

(C) Not later than July 1, 1979, the Board shall issue rules modifying the rules governing those classes of service in existence on July 1, 1977, which classes provide lower fare levels during off-peak periods, so as to expand the period of availability of such classes. The Board shall allow any air carrier to establish additional classes of service in accordance with the objectives of subsection (e)(5) of this section or as may be otherwise consistent with the public interest.

(7) The Board may by rule increase the percentage specified in paragraph (4)(B) of this subsection.

(8) Whenever a complaint is filed with the Board by a civic party under this subsection alleging that any individual or joint fare or charge demanded, charged, collected, or received for interstate or overseas air transportation is or will be unjustly discriminatory, unduly preferential, unduly prejudicial, or predatory, the Board shall grant, deny, or dismiss such complaint within ninety days after such complaint is filed.

(e) Rule of ratemaking

In exercising and performing its power and duties with respect to determining rates, fares, and charges described in paragraph (1) of subsection (d) of this section, the Board shall take into consideration, among other factors—

(1) the criteria set forth in section 1302 of this title;

(2) the need for adequate and efficient transportation of persons and property at the lowest cost consistent with the furnishing of such service;

(3) the effect of prices upon the movement of traffic;

(4) the desirability of a variety of price and service options such as peak and off-peak pricing or other pricing mechanisms to improve economic efficiency and provide low-cost air service; and

(5) the desirability of allowing an air carrier to determine prices in response to particular competitive market conditions on the basis of such air carrier's individual costs.

[*See main edition for text of (f)*]

(g) Suspension of rates

Whenever any air carrier shall file with the Board a tariff stating a new individual or joint (between air carriers) rate, fare, or charge for interstate or overseas air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once, and, if it so orders, without answer or other formal pleading by the air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, the Board, by filing with such tariff, and delivering to the air carrier affected thereby at least fifteen days before the day on which such tariff would otherwise go into effect, a statement in writing of its reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, for a period of ninety days, and, if the proceeding has not been concluded and a final order made within such period, the Board may, from time to time, extend the period of suspension, but not for a longer period in the aggregate than one hundred and eighty days beyond the time when such tariff would otherwise go into effect; and, after hearing, whether completed before or after the rate, fare, charge, classification, rule, regulation, or practice goes into effect, the Board may make such order with reference thereto as would be proper in a proceeding instituted after such rate, fare, charge, classification, rule, regulation, or practice had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed rate, fare, charge, classification, rule, regulation, or practice shall go into effect at the end of such period, except that this subsection shall not apply to any initial tariff filed by any air carrier. The Board shall not suspend any proposed tariff under this subsection because of the proposed rate, fare, charge, classification, rule, regulation, or practice stated therein unless the Board is empowered to find such proposed rate, fare, charge, classification, rule, regulation, or practice unjust or unreasonable and empowered to determine and prescribe the lawful rate, fare, charge, classification, rule, regulation, or practice, or the lawful maximum or minimum, or maximum and minimum rate, fare, or charge.

(h) Power to prescribe divisions of rates

Whenever, after notice and hearing, upon complaint or upon its own initiative, the Board is of the opinion that the divisions of joint rates, fares, or charges for interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii, or overseas or foreign air transportation are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the air carriers or foreign air carriers parties thereto, the Board shall prescribe the just, reasonable, and equitable divisions thereof to be received by the several air carriers. The Board may require the adjustment of divisions between such air carriers from the date of filing the complaint or entry of order of investigation, or such other date subsequent thereto as

the Board finds to be just, reasonable, and equitable.

(i) Power to establish through air transportation service

The Board shall, whenever required by the public convenience and necessity, after notice and hearing, upon complaint or upon its own initiative, establish through service and joint rates, fares, or charges (or the maxima or minima, or the maxima and minima thereof) for interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii, or overseas air transportation, or the classifications, rules, regulations, or practices affecting such rates, fares, or charges, or the value of the service thereunder, and the terms and conditions under which such through service shall be operated: *Provided*, That as to joint rates, fares, and charges for overseas air transportation the Board shall determine and prescribe only just and reasonable maximum or minimum or maximum and minimum joint rates, fares, or charges.

[*See main edition for text of (j)*]

(k) Definitions

(1) For purposes of this section, the term "interstate air transportation of property" means—

(A) the carriage by aircraft of property as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia (other than the carriage by aircraft of property by a common carrier between any pair of points both of which are within the State of Alaska or Hawaii if such carriage is part of the continuous carriage of such property and another common carrier provides, as part of such continuous carriage, the carriage by aircraft of such property between any pair of points one of which is within the State of Alaska or Hawaii and the other of which is not within the same State); or between places in the same State of the United States (other than the State of Alaska or Hawaii) through the airspace over any place outside thereof; or between places in the same territory or possession of the United States, or the District of Columbia;

(B) the carriage by aircraft of property as a common carrier for compensation or hire, in commerce between a place in any State of the United States or the District of Columbia and any place in the Commonwealth of Puerto Rico or the Virgin Islands or between a place in the Commonwealth of Puerto Rico and a place in the Virgin Islands;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(2) For purposes of this section, the term "overseas air transportation" means—

(A) the carriage by aircraft of persons as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, and any place in a territory or possession of the United States; or between a place in a territory or possession of the United States, and a place in any other territory or possession of the United States;

(B) the carriage by aircraft of property as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, and any place in a territory or possession of the United States (other than the Commonwealth of Puerto Rico and the Virgin Islands); or between a place in a territory or possession of the United States (other than the Commonwealth of Puerto Rico and the Virgin Islands), and a place in any other territory or possession of the United States (other than the Commonwealth of Puerto Rico and the Virgin Islands);

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(3) For purposes of this section, the term "air transportation of property within the State of Alaska" means the carriage by aircraft of property (A) by a common carrier for compensation or hire in commerce between any pair of points both of which are within the State of Alaska if such carriage is part of the continuous carriage of such property and another common carrier provides, as part of such continuous carriage, the carriage by aircraft of such property between any pair of points one of which is within the State of Alaska and the other of which is not within such State, or (B) by a common carrier for compensation or hire in commerce between places in the State of Alaska through the airspace over any place outside thereof, whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(4) For purposes of this section, the term "air transportation of property within the State of Hawaii" means the carriage by aircraft of property (A) by a common carrier for compensation or hire in commerce between any pair of points both of which are within the State of Hawaii if such carriage is part of the continuous carriage of such property and another common carrier provides, as part of such continuous carriage, the carriage by aircraft of such property between any pair of points one of which is within the State of Hawaii and the other of which is not within such State, or (B) by a common carrier for compensation or hire in commerce between places in the State of Hawaii through the airspace over any place outside thereof, whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(As amended Pub. L. 95-163, §§ 10(b), 18(a)-(e)(1), Nov. 9, 1977, 91 Stat. 1282, 1286, 1287; Pub. L. 95-504, § 37(a), (b), Oct. 24, 1978, 92 Stat. 1741, 1742.)

AMENDMENTS

1978—Subsec. (d). Pub. L. 95-504, § 37(a), added "or (4)" following "in paragraph (2)" in par. (1), and added pars. (4) to (8).

Subsec. (e). Pub. L. 95-504, § 37(b), substituted provisions relating to the effect of rates, standards for the quality of service, advantages of aircraft, transportation, and sufficient revenue, for provisions relating to for criteria, effect of prices, price and service options, and allowing air carrier to determine prices.

1977—Subsec. (d). Pub. L. 95-163, § 18(a), designated existing provisions as pars. (1) and (2), added provisions in par. (1) as so designated which limited par. (1) to interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii, and overseas air transportation, and added par. (3).

Subsec. (g). Pub. L. 95-163, §§ 10(b), 18(b), substituted "delivering to the air carrier affected thereby at least fifteen days before the day on which such tariff would otherwise go into effect, a statement in writing" for "delivering to the air carrier affected thereby, a statement in writing" and added provisions prohibiting the Board from suspending any proposed tariff under this subsection because of the proposed rate, fare, charge, classification, rule, regulation, or practice stated therein unless the Board is empowered to find such proposed rate, fare, charge, classification, rule, regulation, or practice unjust or unreasonable and empowered to determine and prescribe the lawful rate, fare, charge, classification, rule, regulation, or practice, or the lawful maximum or minimum, or maximum and minimum rate, fare, or charge.

Subsec. (h). Pub. L. 95-163, § 18(c), substituted "interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii, or overseas or foreign air transportation" for "air transportation".

Subsec. (i). Pub. L. 95-163, § 18(d), substituted "interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii, or overseas air transportation" for "interstate or overseas air transportation".

Subsec. (k). Pub. L. 95-113, § 18(e)(1), added subsec. (k).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 11(b) of Pub. L. 95-163 provided that: "The amendment made by subsection (b) of section 10 of this Act [amending the first sentence of subsec. (g) of this section] shall apply to any tariff change filed by any air carrier for interstate or overseas air transportation in accordance with section 403(c) of the Federal Aviation Act of 1958 [section 1373(c) of this title] after the thirtieth day after the date of enactment of this section [Nov. 9, 1977]."

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1371, 1373, 1461, 1471, 1482a, 1551 of this title.

§ 1482a. Uniform method of establishment of joint fares

(1) Whenever the Board pursuant to its authority under section 1002 of the Federal Aviation Act of 1958 (49 U.S.C. 1482) prescribes a uniform method generally applicable to the establishment of joint fares, and the divisions thereof, between air carriers holding certificates issued under section 401 of such Act [49 U.S.C. 1371], it shall make such uniform method applicable to the establishment of joint fares, and the divisions thereof, between such air carriers and commuter air carriers. Any commuter air carrier which has an agreement with any air carrier to provide service for persons and property which includes transportation over its routes and transportation by such air carrier in air transportation shall provide at least ninety days notice to such air carrier and to the Board prior to modifying, suspending, or terminating such service, and if such commuter air carrier fails to provide such notice, any uniform method made applicable to the establishment of joint fares, and the divisions thereof, between air carriers and commuter air carriers in accordance with the preceding sentence shall not apply to such commuter air carrier.

(2) For purposes of this subsection—

(A) the terms "air carrier" and "Board" have the meanings given such terms in the Federal Aviation Act of 1958 [49 U.S.C. 1301 et seq.]; and

(B) the term "commuter air carrier" means any air carrier operating pursuant to section 416(b)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1386(b)(3)) who operates at least five round trips per week between one pair of points, pursuant to flight schedules.

(3) Paragraph (1) of this section shall apply to any uniform method described in such paragraph which the Board prescribes on or after December 27, 1974.

(Pub. L. 95-504, § 37(c), Oct. 24, 1978, 92 Stat. 1742.)

REFERENCES IN TEXT

The Federal Aviation Act of 1958, referred to in par. (2)(A), is Pub. L. 85-726, Aug. 23, 1958, 72 Stat. 731, as amended, which is classified principally to this chapter (§ 1301 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

CODIFICATION

Section was enacted as part of the Airline Deregulation Act of 1978, and not as part of the Federal Aviation Act of 1958 which comprises this chapter.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1483. Joint Boards

CODIFICATION

The Interstate Commerce Act, referred to in subsec. (b), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§ 1 et seq.), 8

(§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of this title. The Act was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of this title. For distribution of former sections of this title into the revised title, see Table at the beginning of this title.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1484. Evidence

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1485. Orders, notices, and service

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1486. Judicial review

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1371, 1429, 1461, 1471 of this title.

§§ 1487, 1488

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1489. Joinder of parties; intervention

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1490. Time requirements

In the case of any application or other written document submitted to the Board under section 1378, 1379, 1382, or 1386 of this title on or after the one-hundred-eightieth day after October 24, 1978, the Board shall—

(1) if the Board orders an evidentiary hearing, issue a final order or decision with respect to such written document, not later than the last day of the twelfth month which begins after the submission of such document, except in the case of an application submitted under section 1378 of this title, the Board shall issue its final order or decision not later than the last day of the sixth month after submission; or

(2) if the Board does not order an evidentiary hearing, issue a final order or decision with respect to such document, not later than the last day of the sixth month which begins after the date of the submission of such document.

(Pub. L. 85-726, title X, § 1010, as added Pub. L. 95-504, § 38(a), Oct. 24, 1978, 92 Stat. 1743.)

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

SUBCHAPTER XI—MISCELLANEOUS

§ 1501. Hazards to air commerce

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

§ 1502. International agreements

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued

thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1503. Documents as evidence

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1504. Public disclosure of information

Any person may make written objection to the public disclosure of information contained in any application, report, or document filed pursuant to provisions of this chapter or of any information obtained by the Board, the Secretary of State, or the Secretary of Transportation pursuant to the provisions of this chapter stating the grounds for such objection. Any information contained in such application, report, or document, or any such other information obtained by the Board, the Secretary of State, or the Secretary of Transportation, shall be withheld from public disclosure by the Board, the Secretary of State or the Secretary of Transportation, as the case may be, if disclosure of such information would prejudice the formulation and presentation of positions of the United States in international negotiations and adversely affect the competitive position of any air carrier in foreign air transportation. The Board, the Secretary of State, or the Secretary of Transportation, as the case may be, shall be responsible for classified information in accordance with appropriate law, except that nothing in this section shall authorize the withholding of information by the Board, the Secretary of State, or the Secretary of Transportation from the duly authorized committees of Congress.

(As amended Pub. L. 95-504, § 39, Oct. 24, 1978, 92 Stat. 1743.)

AMENDMENTS

1978—Pub. L. 95-504 substituted "Secretary of State or the Secretary of Transportation" for "Administrator" wherever appearing, struck out provision for withholding information adversely affecting the interests of such person, and added a provision for withholding information that would prejudice the position of the United States and adversely affect the competitive position of an air carrier in foreign air transportation.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1505. Cooperation with government agencies

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1508. Declaration of national sovereignty in air space; operation of foreign aircraft

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1509. Application of existing laws relating to foreign commerce

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

§ 1510. Geographical extension of jurisdiction

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1511. Authority to refuse transportation; grounds; agreements for carriage of persons or property deemed to include agreements to refuse carriage upon refusal of consent to search

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation

System, see Transfer of Functions note set out under section 1301 of this title.

§ 1514. Suspension of air services by President; grounds; authority of President deemed condition to issuance of certificate of public convenience and necessity, etc.; unlawful activities

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1515. Security standards in foreign air transportation; notice to foreign nation by Secretary of State of standards requirements; determination by Secretary of Transportation and notice to foreign nations of compliance with minimum standards and necessary remedial measures; effect of failure to take remedial measures

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

§ 1516. Property not lawfully transportable in aircraft cabin transported as baggage; liability of air carrier for loss or damage; terms and conditions of liability

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1517. Transportation of government financed passengers and property by certified carriers; disallowance of payments by Comptroller General

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1518 of this title.

§ 1518. Transportation of government-financed passengers and property by non-certified air carriers

Notwithstanding the limitations established by section 1517 of this title, funds appropriated after October 7, 1978, to the Department of State, the International Communication Agency, the Agency for International Development (or any successor agency), and the Arms Control and Disarmament Agency may be used to pay for the transportation, between two places both of which are outside the United States, of officers and employees of those agencies, their dependents, and accompanying baggage, aboard air carriers which do not hold certificates under section 1371 of this title.

(Pub. L. 95-426, title VII, § 706, Oct. 7, 1978, 92 Stat. 992.)

CODIFICATION

Section was enacted as part of the Foreign Relations Authorization Act, Fiscal Year 1979, and not as part of the Federal Aviation Act of 1958 which comprises this chapter.

TRANSFER OF FUNCTIONS

All functions and authorities vested in the Agency for International Development or in its Administrator pursuant to this section were transferred to the Director of the United States International Development Cooperation Agency by Reorg. Plan No. 2 of 1979, § 6(a)(3), 44 F.R. 41165, 93 Stat. 1379, eff. Oct. 1, 1979, as provided by Ex. Ord. No. 12163, § 1-101, Sept. 29, 1979, 44 F.R. 56673, set out as notes in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER XII—SECURITY PROVISIONS

§ 1522. Security control of air traffic

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

SUBCHAPTER XIII—AVIATION INSURANCE

§ 1531. Definitions

As used in this subchapter—

(1) the term "American aircraft" means any civil aircraft of the United States and any aircraft owned or chartered by, or made available to, the United States or any department or agency thereof, the government of any State, territory, or possession of the United States, or any political subdivision thereof, or the District of Columbia;

(2) the terms "insurance company" and "insurance carrier" include any mutual or stock insurance company, reciprocal insurance association, and any group or association authorized to do an aviation insurance business in any State of the United States; and

(3) the term "Secretary" means the Secretary of Transportation.

(As amended Pub. L. 95-163, § 1(a), Nov. 9, 1977, 91 Stat. 1278.)

AMENDMENTS

1977—Pub. L. 95-163 struck out provisions defining "war risks" as all or any part of those risks which are

described in "free of capture and seizure" clauses or analogous clauses and struck out provisions which had related the definition of "American aircraft" to the term "civil aircraft of the United States" as defined in section 1301(15) of this title and had limited the definition of "insurance company" and "insurance carrier" only to a definition of those terms as they were used in sections 1535(a) and (b) and 1537(d) of this title.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

§ 1532. Authority to insure

(a) Authority of Secretary of Transportation

(1) The Secretary, with the approval of the President, and after such consultation with interested agencies of the Government as the President may require, may provide insurance and reinsurance against loss or damage arising out of any risk from the operation of an aircraft in the manner and to the extent provided by this subchapter, whenever it is determined by the Secretary that such insurance cannot be obtained on reasonable terms and conditions from any company authorized to do an insurance business in a State of the United States.

(2) The President shall approve insurance or reinsurance under paragraph (1) of this subsection only if he has first made a determination that the continuation of the American aircraft, or the foreign-flag aircraft, operation to be insured or reinsured is necessary to carry out the foreign policy of the United States.

(3) Insurance shall be issued under this subchapter only to cover any risk from the operation of an aircraft while such aircraft is (A) engaged in foreign air commerce, or (B) being operated between two or more points all of which are outside of the United States.

(b) Basis of insurance

The premium charged for any insurance or reinsurance issued under any provision of this subchapter shall be based, insofar as practicable, upon consideration of the risk involved.

(c) Period of coverage

No insurance or reinsurance may be provided by the Secretary under this subchapter for an initial period of more than sixty days. Such insurance or reinsurance may be extended for additional periods each of which shall not exceed sixty days, but only if, before each such extension, the President makes the same determination with respect to such extension as he is required to make under paragraph (2) of subsection (a) of this section for the initial provision of such insurance or reinsurance.

(As amended Pub. L. 95–163, § 2, Nov. 9, 1977, 91 Stat. 1278.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95–163 designated existing provisions as par. (1), substituted "any risk from the operation of an aircraft" for "war risks" and "such insurance cannot be obtained" for "such insurance adequate for the needs of the air commerce of the United States cannot be obtained" in par. (1) as so designated, struck out proviso that no insurance shall be issued under this subchapter to cover war risks on persons or property engaged or transported exclusively in air commerce within the several States of the United States and the District of Columbia, and added pars. (2) and (3).

Subsec. (b). Pub. L. 95–163 substituted "The premium charged for any insurance or reinsurance issued under any provision of this subchapter" for "Any insurance or reinsurance issued under any of the provisions of this subchapter".

Subsec. (c). Pub. L. 95–163 added subsec. (c).

§ 1533. Insurable persons, property, or interests

The Secretary may provide the insurance and reinsurance, authorized by section 1532 of this title with respect to the following persons, property, or interest:

(1) American aircraft and those foreign-flag aircraft engaged in aircraft operations deemed by the President to be necessary to carry out the foreign policy of the United States.

(2) Cargoes transported or to be transported on any aircraft referred to in paragraph (1), including shipments by express or registered mail; air cargoes owned by citizens or residents of the United States, its territories, or possessions; air cargoes imported to, or exported from the United States, its territories, or possessions and air cargoes sold or purchased by citizens or residents of the United States, its territories, or possessions, under contracts of sale or purchase by the terms of which the risk of loss or the obligation to provide insurance against such risks is assumed by or falls upon a citizen or resident of the United States, its territories, or possessions; air cargoes transported between any point in the United States and any point in a territory or possession of the United States, between any point in any such territory or possession and any point in any other such territory or possession, or between any point in any such territory or possession and any other point in the same territory or possession.

(3) The personal effects and baggage of the captains, pilots, officers, members of the crews of any aircraft referred to in paragraph (1), and of other persons employed or transported on such aircraft.

(4) Captains, pilots, officers, members of the crews of any aircraft referred to in paragraph (1), and other persons employed or transported thereon against loss of life, injury, or detention.

(5) Statutory or contractual obligations or other liabilities of any aircraft referred to in paragraph (1) or of the owner or operator of such aircraft of the nature customarily covered by insurance.

(As amended Pub. L. 95–163, § 3, Nov. 9, 1977, 91 Stat. 1279.)

AMENDMENTS

1977—Pub. L. 95–163 recast the provisions covering American aircraft and those foreign-flag aircraft engaged in aircraft operations by substituting a requirement that the President make a determination that

the aircraft operations are necessary to carry out the foreign policy of the United States in order that such aircraft be covered for a prior requirement under which the Secretary had been required to make a determination that the aircraft operations were in the interest of the national defense or the national economy of the United States when so engaged in order for the aircraft to be covered, and struck out a reference to war risks.

§ 1535. Reinsurance; premiums; allowances to insurance carriers

[*See main edition for text of* (a)]

(b) Reinsurance shall not be provided by the Secretary at premiums less than nor obtained by the Secretary at premiums more than the premiums established by the Secretary on the same or similar risks or the premiums charged by the insurance carrier for the insurance so reinsured, whichever is most advantageous to the Secretary, except that the Secretary may make to the insurance carrier such allowances for expenses on account of the cost of services rendered or facilities furnished as he deems reasonably to accord with good business practice, but such allowance to the carrier shall not provide for any payment by the carrier on account of solicitation for or stimulation of insurance business.

(As amended Pub. L. 95-163, § 4(a), Nov. 9, 1977, 91 Stat. 1279.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-163 substituted "premiums" for "rates".

§ 1536. Insurance fund

TRANSFER OF FUNCTIONS

All functions vested by statute in the United States Civil Service Commission were transferred to the Director of the Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§ 1537. Administrative provisions

[*See main edition for text of* (a)]

(b) Forms and policies; premiums

The Secretary may prescribe and change forms and policies, and fix, adjust, and change the amounts insured and the premiums provided for in this subchapter, except that with respect to policies in effect at the time any such change is made, such change shall apply only with the consent of the insured.

[*See main edition for text of* (c) *to* (f)]

(As amended Pub. L. 95-163, § 5(a), Nov. 9, 1977, 91 Stat. 1280.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-163 substituted "the premiums provided for in this subchapter, except that" for "rates of premium provided for in this subchapter: Provided, That".

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1542. Expiration of authority to provide insurance

The authority of the Secretary to provide insurance and reinsurance under this subchapter shall expire at the termination of September 30, 1982.

(As amended Pub. L. 95-163, § 6, Nov. 9, 1977, 91 Stat. 1280.)

AMENDMENTS

1977—Pub. L. 95-163 substituted "September 30, 1982" for "May 7, 1977".

SUBCHAPTER XIV—CHANGES IN REGULATORY STRUCTURE [NEW]

§ 1551. Termination of Civil Aeronautics Board and transfer of certain functions

(a) Termination of authority

(1) The following provisions of this chapter (to the extent such provisions relate to interstate and overseas air transportation of persons) and the authority of the Board with respect to such provisions (to the same extent) shall cease to be in effect on December 31, 1981:

(A) Sections[1] 1371(d)(1), (2), and (3) of this title (insofar as such sections require a determination of consistency with the public convenience and necessity and insofar as section 1371(d)(3) of this title prohibits persons holding certificates under section 1371(d)(1) or (d)(2) of this title from obtaining certificates to provide interstate or overseas charter air transportation of persons).

(B) Section 1371(d)(8) of this title.

(C) Section 1371(e)(1) of this title (insofar as such section permits the Board to specify terminal and intermediate points).

(D) Section 1371(j) of this title (except with respect to essential air transportation).

(E) Sections[1] 1371(n)(1) and (4) of this title.

(F) Section 1374(a) of this title (insofar as such section requires any air carrier to provide air transportation authorized by its certificate).

(G) Section 1375(b) of this title (insofar as such section requires the filing of any statement or schedule by any air carrier).

(2) The following provisions of this chapter (to the extent such provisions relate to interstate and overseas air transportation of persons) and the authority of the Board with respect to such provisions (to the same extent) shall cease to be in effect on January 1, 1983:

(A) Section 1373 of this title.

(B) Section 1374 of this title (except insofar as such section requires air carriers to provide safe and adequate service).

(C) Section 1377(b) and (c) of this title.

(D) Sections[1] 1482(d)(1) and (d)(2), (e), (g), (h), and (i) of this title.

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[1] So in original. Probably should be "Section".

(3) The authority of the Board under sections 1378 and 1379 of this title (relating to interstate and overseas air transportation) and the authority of the Board under section 1384 of this title (relating to such sections 1378 and 1379 of this title) is transferred to the Department of Justice on January 1, 1983.

(4) Subchapter II of this chapter shall cease to be in effect on January 1, 1985.

(b) Transfer of certain authority

(1) The following authority of the Board is transferred to the following Federal departments and instrumentalities:

(A) The authority of the Board under sections[1] 1376(b)(3) and (c) of this title to provide compensation for air transportation to small communities and under section 1389 of this title is transferred to the Department of Transportation.

(B) The authority of the Board under this chapter with respect to foreign air transportation is transferred to the Department of Transportation which shall exercise such authority in consultation with the Department of State.

(C) The authority of the Board under sections 1378 and 1379 of this title (relating to foreign air transportation), the authority of the Board under section 1382 of this title, and the authority of the Board under section 1384 of this title (relating to such sections 1378, 1379 and 1382 of this title) is transferred to the Department of Justice.

(D) The authority of the Board under this chapter with respect to the determination of the rates for the carriage of mails in interstate and overseas air transportation is transferred to the Postal Service and such authority shall be exercised through negotiations or competitive bidding.

(2) Any authority transferred under paragraph (1) of this subsection shall take effect on January 1, 1985.

(c) Report and assessment by Board

Not later than January 1, 1984, the Board shall prepare and submit to the Congress a comprehensive review of the Board's implementation of the provisions of this chapter during the preceding initial period of this chapter's existence, and a comprehensive review of each of the Board's programs under this chapter. Each such review shall be made available to the committee or committees of the Senate and House of Representatives having jurisdiction with respect to the annual authorization of funds for the Board and its programs for the fiscal year beginning October 1, 1983.

(d) Elements of Board consideration

The comprehensive review of the Board's implementation of this chapter, prepared for submission under subsection (c) of this section, shall include—

(1) a detailed comparison of the degree of competition within the airline industry as of the year preceding enactment of this section and the final year covered by the review;

(2) a comparison of the degree of pricing competition in the industry during those two one-year periods;

(3) a comparison of the extent of unused authority held by the industry during those two one-year periods, with details as to the number of nonstop route segments which have been transferred from one carrier to another under section 1371(d)(5) of this title;

(4) an assessment of the degree to which agreements approved under section 1382 of this title have affirmatively or negatively affected the degree of competition within the industry;

(5) a comparison of the extent of air transportation service provided to small communities during the two one-year periods specified above, together with details as to the comparative subsidy costs during these two periods;

(6) an assessment of the degree, if any, to which the administrative process has been expedited under this chapter;

(7) an assessment of the impact of the foregoing changes upon the national air transportation system in terms of benefits or detriments to the traveling and shipping public, the Postal Service, and the national defense, and the benefits and detriments to air carriers, certificated and uncertificated; and

(8) the Board's opinion as to whether the foregoing changes in combination, have improved or harmed this Nation's domestic air transportation system and the United States-flag foreign air transportation system.

This assessment shall be accompanied by a detailed opinion from the Board as to whether the public interest requires continuation of the Board and its functions beyond January 1, 1985, and, if it is the Board's conclusion that it should continue to exist, detailed recommendations as to how the provisions of this chapter should be revised to insure continued improvement of the Nation's air transportation system beyond January 1, 1985. The Board's assessment under this subsection shall also be accompanied by a comparative analysis of procedures under section 1461 of this title before and after October 24, 1978, together with the Board's opinion as to the benefits of each set of procedures.

(e) Elements for each comprehensive review

Each comprehensive review of the Board's programs under this chapter, prepared for submission under subsection (c) of this section, shall include—

(1) an identification of the objectives intended for the program, and the problem or need which the program was intended to address;

(2) an identification of any other programs having similar or potentially conflicting or duplicative objectives;

(3) an assessment of alternative methods of achieving the purposes of the program;

(4) a justification for the authorization of new budget authority, and an explanation of the manner in which it conforms to and integrates with other efforts;

(5) an assessment of the degree to which the original objectives of the program have

[1] So in original. Probably should be "section".

been achieved, expressed in terms of the performance, impact, or accomplishments of the program and of the problem or need which it was intended to address, and employing the procedures or methods of analysis appropriate to the type or character of the program;

(6) a statement of the performance and accomplishments of the program in each of the previous four completed fiscal years and in the year of submission, and of the budgetary costs incurred in the operation of the program;

(7) a statement of the number and types of beneficiaries or persons or entities by the program;

(8) an assessment of the effect of the program on the national economy, including, but not limited to, the effects on competition, economic stability, employment, unemployment, productivity, energy consumption and conservation, and price inflation, including costs to consumers and to businesses;

(9) an assessment of the impact of the program on the Nation's health and safety;

(10) an assessment of the degree to which the overall administration of the program, as expressed in the rules, regulations, orders, standards, criteria, and decisions of the officers executing the program, are believed to meet the objectives of the Congress in enacting this chapter;

(11) a projection of the anticipated needs for accomplishing the objectives of the program, including an estimate if applicable of the date on which, and the conditions under which, the program may fulfill such objectives;

(12) an analysis of the services which could be provided and performance which could be achieved if the program were contained at a level less than, equal to, or greater than the existing level; and

(13) recommendations for necessary transitional requirements in the event that funding for such program is discontinued, including proposals for such executive or legislative action as may be necessary to prevent such discontinuation from being unduly disruptive.

(Pub. L. 85-726, title XVI, § 1601, as added Pub. L. 95-504, § 40(a), Oct. 24, 1978, 92 Stat. 1744.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (2), (4), (b)(1)(B), (D), and (c) to (e), read in the original, "this Act", meaning Pub. L. 85-726, Aug. 23, 1958, 72 Stat. 731, known as the Federal Aviation Act of 1958. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

The year preceding enactment of this section, referred to in subsec. (d)(1), means the year preceding the enactment of Pub. L. 95-504, which was enacted Oct. 24, 1978.

§ 1552. Employee protection program

(a) General rule

(1) The Secretary of Labor shall, subject to such amounts as are provided in appropriation Acts, make monthly assistance payments, or reimbursement payments, in amounts computed according to the provisions of this section, to each individual who the Secretary finds, upon application, to be an eligible protected employee. An eligible protected employee shall be a protected employee who on account of a qualifying dislocation (A) has been deprived of employment, or (B) has been adversely affected with respect to his compensation.

(2) No employee who is terminated for cause shall receive any assistance under this section.

(b) Monthly assistance computation

(1) An eligible protected employee shall, subject to such amounts as are provided in appropriation Acts, receive a monthly assistance payment, for each month in which he is an eligible protected employee, in an amount computed by the Secretary. The Secretary, after consultation with the Secretary of Transportation, shall, by rule, promulgate guidelines to be used by him in determining the amount of each monthly assistance payment to be made to a member of each craft and class of protected employees, and what percentage of salary such payment shall constitute for each applicable class or craft of employees. In computing such amounts for any individual protected employee, the Secretary shall deduct from such amounts the full amount of any unemployment compensation received by the protected employee.

(2) If an eligible protected employee is offered reasonably comparable employment and such employee does not accept such employment, then such employee's monthly assistance payment under this section shall be reduced to an amount which such employee would have beeen[1] entitled to receive if such employee had accepted such employment. If the acceptance of such comparable employment would require relocation, such employee may elect not to relocate and, in lieu of all other benefits provided herein, to receive the monthly assistance payments to which he would be entitled if this paragraph were not in effect, except that the total number of such payments shall be the lesser of three or the number remaining pursuant to the maximum provided in subsection (e) of this section.

(c) Assistance for relocation

If an eligible protected employee relocates in order to obtain other employment, such employee shall, subject to such amounts as are provided in appropriation Acts, receive reasonable moving expenses (as determined by the Secretary) for himself and his immediate family. In addition, such employee shall, subject to such amounts as are provided in appropriation Acts, receive reimbursement payments for any loss resulting from selling his principal place of residence at a price below its fair market value (as determined by the Secretary) or any loss incurred in cancelling such employee's lease agreement or contract of purchase relating to his principal place of residence.

(d) Duty to hire protected employees

(1) Each person who is a protected employee of an air carrier which is subject to regulation by the Civil Aeronautics Board who is furloughed or otherwise terminated by such an air carrier (other than for cause) prior to the last

[1] So in original. Probably should be "been".

day of the 10-year period beginning on October 24, 1978, shall have first right of hire, regardless of age, in his occupational specialty, by any other air carrier hiring additional employees which held a certificate issued under section 1371 of this title prior to October 24, 1978. Each such air carrier hiring additional employees shall have a duty to hire such a person before they hire any other person, except that such air carrier may recall any of its own furloughed employees before hiring such a person. Any employee who is furloughed or otherwise terminated (other than for cause), and who is hired by another air carrier under the provisions of this subsection, shall retain his rights of seniority and right of recall with the air carrier that furloughed or terminated him.

(2) The Secretary shall establish, maintain, and periodically publish a comprehensive list of jobs available with air carriers certificated under section 1371 of this title. Such list shall include that information and detail, such as job descriptions and required skills, the Secretary deems relevant and necessary. In addition to publishing the list, the Secretary shall make every effort to assist an eligible protected employee in finding other employment. Any individual receiving monthly assistance payments, moving expenses, or reimbursement payments under this section shall, as a condition to receiving such expenses or payments, cooperate fully with the Secretary in seeking other employment. In order to carry out his responsibilities under this subsection, the Secretary may require each such air carrier to file with the Secretary the reports, data, and other information necessary to fulfill his duties under this subsection.

(3) In addition to making monthly assistance or reimbursement payments under this section, the Secretary shall encourage negotiations between air carriers and representatives of eligible protected employees with respect to rehiring practices and seniority.

(e) Period of monthly assistance payments

(1) Monthly assistance payments computed under subsection (b) of this section for a protected employee who has been deprived of employment shall be made each month until the recipient obtains other employment, or until the end of the 72 months occurring immediately after the month such payments were first made to such recipient, whichever first occurs.

(2) Monthly assistance payments computed under subsection (b) of this section for a protected employee who has been adversely affected relating to his compensation shall be paid for no longer than 72 months, so long as the total number of monthly assistance payments made under this section for any reason do not exceed 72.

(f) Rules and regulations

(1) The Secretary may issue, amend, and repeal such rules and regulations as may be necessary for the administration of this section.

(2) The rule containing the guidelines which is required to be promulgated pursuant to subsection (b) of this section and any other rules or regulations which the Secretary deems necessary to carry out this section shall be promulgated within six months after October 24, 1978.

(3) The Secretary shall not issue any rule or regulation as a final rule or regulation under this section until 30 legislative days after it has been submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives. Any rule or regulation issued by the Secretary under this section as a final rule or regulation shall be submitted to the Congress and shall become effective 60 legislative days after the date of such submission, unless during that 60-day period either House adopts a resolution stating that that House disapproves such rules or regulations, except that such rules or regulations may become effective on the date, during such 60-day period, that a resolution has been adopted by both Houses stating that the Congress approves of them.

(4) For purposes of this subsection, the term "legislative day" means a calendar day on which both Houses of Congress are in session.

(g) Airline employees protective account

All payments under this section shall be made by the Secretary from a separate account maintained in the Treasury of the United States to be known as the Airline Employees Protective Account. There are authorized to be appropriated to such account annually, beginning with the fiscal year ending September 30, 1979, such sums as are necessary to carry out the purposes of this section, including amounts necessary for the administrative expenses of the Secretary related to carrying out the provisions of this section.

(h) Definitions

For the purposes of this section—

(1) The term "protected employee" means a person who, on October 24, 1978, has been employed for at least 4 years by an air carrier holding a certificate issued under section 1371 of this title. Such term shall not include any members of the board of directors or officers of a corporation.

(2) The term "qualifying dislocation" means a bankruptcy or major contraction of an air carrier holding a certificate under section 1371 of this title, occurring during the first 10 complete calendar years occurring after October 24, 1978, the major cause of which is the change in regulatory structure provided by the Airline Deregulation Act of 1978, as determined by the Civil Aeronautics Board.

(3) The term "Secretary" means the Secretary of Labor.

(4) The term "major contraction" means a reduction by at least 7½ percent of the total number of full-time employees of an air carrier within a 12-month period. Any particular reduction of less than 7½ percent may be found by the Board to be part of a major contraction of an air carrier if the Board determines that other reductions are likely to occur such that within a 12-month period in which such particular reduction occurs the total reduction will exceed 7½ percent. In computing a 7½-percent reduction under this paragraph, the Board shall not include employees who are deprived of employment because of a strike or who are terminated for cause.

(i) Transfer of authority of Board

The authority of the Board under this section is transferred to the Department of Transportation on January 1, 1985.

(j) Termination

The provisions of this section shall terminate on the last day the Secretary is required to make a payment under this section.

(Pub. L. 95-504, § 43, Oct. 24, 1978, 92 Stat. 1750.)

REFERENCES IN TEXT

The Airline Deregulation Act of 1978, referred to in subsec. (h)(2), is Pub. L. 95-504, Oct. 24, 1978, 92 Stat. 1705. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 1301 of this title and Tables.

CODIFICATION

Section was enacted as part of the Airline Deregulation Act of 1978, and not as part of the Federal Aviation Act of 1958 which comprises this chapter.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

CHAPTER 21—URBAN MASS TRANSPORTATION

Sec.
1602-1. Conversion of equipment and facilities loans to grants for public transportation projects [New].
1607. Long-range planning and technical studies [New].
(a) Development of transportation plans and programs; matters considered.
(b) Urbanized area planning process.
(c) Approval of program of projects by Secretary.
(d) Contracts and grants to States and local agencies for planning, etc., of transportation projects.
(e) Participation of private enterprise.
1614. Formula grant program for areas other than urbanized areas [New].
(a) Apportionment of appropriated sums.
(b) Use of funds for transportation projects included in a State program of projects for public transportation services; approval of program.
(c) Availability of sums apportioned for obligation by States.
(d) Use of funds for administration and technical assistance.
(e) Federal share of construction projects.
(f) Terms and conditions of grants; application of other laws.
(g) Omitted.
1615. Nondiscrimination [New].
1616. Human resources programs in public transportation activities [New].
1617. Terminal development program [New].
(a) Grants to States and local bodies and agencies.
(b) Use of facilities by privately owned bus companies.
(c) Amount of grant.
(d) Authorization of appropriations.
(e) Application of other laws.
1618. Intercity bus service for rural areas [New].
(a) Grants for initiation, improvement or continuation of bus service.
(b) Eligibility for grants; purpose and amount of grant.
(c) Authorization of appropriations.
(d) Evaluation of needs of intercity bus industry.
(e) Application of other laws.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 23 sections 103, 142; title 42 section 7506.

§ 1601. Declaration of findings and purposes

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-599, title III, § 301, Nov. 6, 1978, 92 Stat. 2735, provided that: "This title [enacting sections 1602-1, 1607, 1614, 1615, 1616, 1617 and 1618 of this title, amending sections 1602, 1603, 1604, 1607b, 1607c, 1608, 1611, 1612, 1613 of this title and section 1418 of Title 15, Commerce and Trade, repealing sections 1607, 1607a, and 1614 of this title, and enacting provisions set out as notes under sections 1604, 1605, 1607, and 1612 of this title] may be cited as the 'Federal Public Transportation Act of 1978'."

§ 1602. Federal financial assistance

(a) Grants or loans to States and local public agencies; uses of funds; eligibility of applicant; real property acquisition; prohibition on uses of grant or loan funds; intention to obligate by letter of intent to applicant

(1) The Secretary is authorized, in accordance with the provisions of this chapter and on such terms and conditions as the Secretary may prescribe, to make grants or loans (directly, through the purchase of securities or equipment trust certificates, or otherwise) to assist States and local public bodies and agencies thereof in financing—

(A) the construction of new fixed guideway systems and extensions to existing fixed guideway systems, including the acquisition of real property, the initial acquisition of rolling stock needed for such systems, and the detailed alternative analyses relating to the development of such systems;

(B) the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service and the coordination of such service with highway and other transportation. Eligible facilities and equipment may include personal property such as buses and other rolling stock, and rail and bus facilities, and real property and improvements (but not public highways other than fixed guideway facilities) needed for an efficient and coordinated public transportation system. No project for the replacement or purchase of buses and re-

lated equipment or the construction of bus-related facilities shall be approved unless the Secretary finds that such project cannot be reasonably funded out of the apportionments under section 1604(a)(4) of this title;

(C) the introduction into public transportation service of new technology in the form of innovative and improved products;

(D) transportation projects which enhance the effectiveness of any mass transportation project and are physically or functionally related to such mass transportation project or which create new or enhanced coordination between public transportation and other forms of transportation, either of which enhance urban economic development or incorporate private investment including commercial and residential development. The term "eligible costs" includes property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space, and the acquisition, construction, and improvement of facilities and equipment for intermodal transfer facilities and transit malls, but does not include the construction of commercial revenue-producing facilities, whether publicly or privately owned, or of those portions of public facilities not related to mass transportation. The Secretary shall require that all grants and loans under this paragraph be subject to such terms, conditions, requirements, and provisions as the Secretary determines necessary or appropriate for purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section. The Secretary shall require in all grants and loans under this subparagraph that any person or entity that contracts to occupy space in facilities funded under this subparagraph shall pay a fair share of the cost of such facilities, through rental payments and other means;

(E) the modification of equipment and fixed facilities (other than stations) which the Secretary determines to be necessary to avoid any adverse effects resulting from the implementation of the Northeast Corridor project pursuant to title VII of Public Law 94-210. Notwithstanding the Federal share provisions of section 1603(a) of this title, the Secretary is authorized to make grants for 100 per centum of the net project cost of projects assisted under this subparagraph.

(2)(A) No grant or loan shall be provided under this section unless the Secretary determines that the applicant has or will have—

(i) the legal, financial, and technical capacity to carry out the proposed project; and

(ii) satisfactory continuing control, through operation or lease or otherwise, over the use of the facilities and the equipment.

(B) The Secretary may make loans for real property acquisition pursuant to subsection (b) of this section upon a determination, which shall be in lieu of the determination required by subparagraph (A), that the real property is reasonably expected to be required in connection with a mass transportation system and that it will be used for that purpose within a reasonable period.

(C) No grant or loan funds shall be used for payment of ordinary governmental or nonproject operating expenses, nor shall any grant or loan funds be used to support procurements utilizing exclusionary or discriminatory specifications.

(3) The Secretary shall not approve a grant or loan for a project under this section unless the Secretary finds that such project is part of an approved program of projects required by section 1607 of this title.

(4) The Secretary is authorized to announce an intention to obligate for a project under this section through the issuance of a letter of intent to the applicant. Such an action shall not be deemed an obligation as defined under section 200 of title 31, nor shall such a letter be deemed an administrative commitment. The letter shall be regarded as an intention to obligate from future available budget authority provided in an appropriation Act not to exceed an amount stipulated as the Secretary's financial participation in the defined project under this section. The amount stipulated in the letter, when issued for a fixed guideway project, shall be sufficient to complete an operable segment. No obligation or administrative commitment may be made pursuant to such a letter of intent except as funds are provided in appropriations Acts. The total estimated amount of future Federal obligations covered by all outstanding letters of intent shall not exceed the amount authorized in section 1603(c) of this title, less an amount reasonably estimated by the Secretary to be necessary for grants under this section which are not covered by a letter of intent. The total amount covered by new letters issued shall not exceed any limitation that may be specified in an appropriations Act. Nothing in this paragraph shall affect the validity of letters of intent issued prior to November 6, 1978.

(b) Acquisition of real property; uses; provisions of loan agreement; repayment and forgiveness of loans; submission of applications to the Secretary and the comprehensive planning agency of the community affected and consideration of comments of such agency by the Secretary

The Secretary is authorized to make loans under this section to States or local public bodies and agencies thereof to finance the acquisition of real property and interests in real property for use as rights-of-way, station sites, and related purposes, on urban mass transportation systems, including reconstruction, renovation, and the net cost of property management and relocation payments made pursuant to section 1606 of this title. Each loan agreement under this subsection shall provide for actual construction of urban mass transportation facilities on acquired real property within a period not exceeding ten years following the fiscal year in which the agreement is made. Each agreement shall provide that in the event acquired real property or interests in real property are not to be used for the purposes for which acquired, an appraisal of current value will be made at the time of that determination,

which shall not be later than ten years following the fiscal year in which the agreement is made. Two-thirds of the increase in value, if any, over the original cost of the real property shall be paid to the Secretary for credit to miscellaneous receipts of the Treasury. Repayment of amounts loaned shall be credited to miscellaneous receipts of the Treasury. A loan made under this subsection shall be repayable within ten years from the date of the loan agreement or on the date a grant agreement for actual construction of facilities on the acquired real property is made, whichever date is earlier. A grant agreement for construction of facilities under this chapter may provide for forgiveness of the repayment of the principal and accrued interest on the loan then outstanding in lieu of a cash grant in the amount thus forgiven, which for all purposes shall be considered a part of the grant and of the Federal portion of the cost of the project. An applicant for assistance under this subsection shall furnish a copy of its application to the comprehensive planning agency of the community affected concurrently with submission to the Secretary. If within a period of thirty days thereafter (or, in a case where the comprehensive planning agency of the community (during such thirty-day period) requests more time, within such longer period as the Secretary may determine) the comprehensive planning agency of the community affected submits comments to the Secretary, the Secretary must consider the comments before taking final action on the application.

[*See main edition for text of* (c) *and* (d)]

(e) Private transit operators

No financial assistance shall be provided under this chapter to any State or local public body or agency thereof for the purpose, directly or indirectly, of acquiring any interest in, or purchasing any facilities or other property of, a private mass transportation company, or for the purpose of constructing, improving, or reconstructing any facilities or other property acquired (after July 9, 1964) from any such company, or for the purpose of providing by contract or otherwise for the operation of mass transportation facilities or equipment in competition with, or supplementary to, the service provided by an existing mass transportation company, unless (1) the Secretary finds that such assistance is essential to the program of projects required by section 1607 of this title, (2) the Secretary finds that such program, to the maximum extent feasible, provides for the participation of private mass transportation companies, (3) just and adequate compensation will be paid to such companies for acquisition of their franchises or property to the extent required by applicable State or local laws, and (4) the Secretary of Labor certifies that such assistance complies with the requirements of section 1609(c) of this title.

[*See main edition for text of* (f) *and* (g)]

(h) Expenditure of funds in connection with acquisition of buses, bus equipment, or bus related facilities

Notwithstanding any other provision of this chapter, the Secretary, upon application by a local public body, may approve a project which utilizes funds available under this section and section 1604 of this title, but in any such project, none of the funds available under this section may be expended in connection with the acquisition of buses, bus equipment, or bus related facilities unless the combined project includes new buses, bus equipment, or bus related facilities the cost of which is at least equal to the total amount that reasonably could have been provided for such purposes with funds available under section 1604(a)(4) of this title.

(As amended Pub. L. 95-599, title III, § 302, Nov. 6, 1978, 92 Stat. 2735.)

REFERENCES IN TEXT

Title VII of Public Law 94-210, referred to in subsec. (a)(1)(E), is title VII of Pub. L. 94-210, Feb. 5, 1976, 90 Stat. 119, as amended, which enacted subchapter III (§ 851 et seq.) of chapter 17 of Title 45, Railroads, and amended sections 1653 of this title and sections 543, 545, 546, 562 to 564, and 791 of Title 45. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 45 and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-599, § 302(a), expanded the provisions of this subsection to include construction of new fixed guideway systems and extension, acquisition, construction, and reconstruction of mass transportation facilities and equipment, the introduction of new technology into public transportation service, transportation projects enhancing effectiveness of mass transportation and mitigation of any adverse effects resulting from implementation of the Northeast Corridor project and to specify limitations and requirements for grants and loans.

Subsec. (b). Pub. L. 95-599, § 302(b), substituted "including reconstruction, renovation, and the net cost of property management" for "including the net cost of property management".

Subsec. (e)(1). Pub. L. 95-599, § 302(c), substituted "the Secretary finds that such assistance is essential to the program of projects required by section 1607 of this title" for "the Secretary finds that such assistance is essential to a program, proposed or under active preparation, for a unified or officially coordinated urban transportation system as part of the comprehensively planned development of the urban area".

Subsec. (h). Pub. L. 95-599, § 302(d), substituted provisions authorizing the Secretary to approve a project utilizing funds available under this section and section 1604, prohibiting, however, the expenditure of funds in connection with the acquisition of buses, bus equipment, etc., unless the combined project includes new buses, etc., the cost of which is at least equal to the total that could have been provided for such purposes with funds available under section 1604(a)(4) for provisions allowing the expenditure of up to one-half of any financial assistance provided under this chapter (other than under section 1604 of this title) for the payment of operating expenses if the Secretary finds that effective arrangements have been made to substitute an equal amount of State or local funds.

USE OF ARTICLES MINED OR MANUFACTURED IN THE UNITED STATES

Section 401 of Pub. L. 95-599 provided that:

"(a) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act [see

Short Title note set out under section 101 of Title 23, Highways] or by any Act amended by this Act and administered by the Department of Transportation, whose total cost exceeds $500,000 unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States, will be used in such project.

"(b) The provisions of subsection (a) of this section shall not apply where the Secretary determines—

"(1) their application would be inconsistent with the public interest;

"(2) in the case of acquisition of rolling stock their application would result in unreasonable cost (after granting appropriate price adjustments to domestic products based on that portion of project cost likely to be returned to the United States and to the States in the form of tax revenues;

"(3) supplies of the class or kind to be used in the manufacture of articles, materials, supplies that are not mined, produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

"(4) that inclusion of domestic material will increase the cost of the overall project contract by more than 10 per centum."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1602-1, 1602a, 1603, 1604, 1606, 1608, 1609, 1610, 1612, 1614, 1617, 1618 of this title; title 23 sections 103, 142; title 42 sections 3013, 3303, 3338, 4519.

§ 1602-1. Conversion of equipment and facilities loans to grants for public transportation projects

(a) The Secretary of Transportation may convert equipment and facilities loans heretofore made under section 1602(a) of this title or title II of the Housing Amendments of 1955 (42 U.S.C. 14924[1]), to grants under the conditions set forth below. A grant agreement for the acquisition, construction, reconstruction, or improvement of facilities and equipment under section 1602(a) of this title may provide for forgiveness of principal and interest on a loan previously made in lieu of a cash grant in the amount forgiven. Such grant shall be subject to such terms and conditions as the Secretary may deem necessary and appropriate, taking into account the degree of completion of the project financed with the loan.

(b) In lieu of the local matching share otherwise required, the grant agreement may provide that State or local funds shall be committed to public transportation projects in the urbanized area, on a schedule acceptable to the Secretary, in an amount equal to the local share that would have been required had the amount of principal and interest forgiven been the Federal share of a capital grant made when the original loan was made. The State or local funds contributed under the terms of the preceding sentence shall be made available for capital projects eligible for funding under section 1602(a) of this title and may not be used to satisfy the local matching requirements for any other grant project.

(Pub. L. 95-599, title III, § 316, Nov. 6, 1978, 92 Stat. 2751.)

[1] So in original. Probably should be "1492(a)".

REFERENCES IN TEXT

The Housing Amendments of 1955, referred to in subsec. (a), is act Aug. 11, 1955, ch. 783, 69 Stat. 645, as amended. Title II of the Housing Amendments of 1955 is classified generally to chapter 8B (§ 1491 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 12, Banks and Banking, and Tables.

CODIFICATION

Section was enacted as a part of the Surface Transportation Assistance Act of 1978, and not as a part of the Urban Mass Transportation Act of 1964 which comprises this chapter.

§ 1603. Long-range program

(a) "Net project costs" defined; Federal grant for two-thirds and non-Federal funds for one-third of net project cost; refunds

The Secretary, on the basis of engineering studies, studies of economic feasibility, and data showing the nature and extent of expected utilization of the facilities and equipment, shall estimate what portion of the cost of a project to be assisted under section 1602 of this title cannot be reasonably financed from revenues—which portion shall hereinafter be called "net project cost". The Federal grant for any such project to be assisted under section 1602 of this title shall be in an amount equal to 80 per centum of the net project cost. The remainder of the net project cost shall be provided, in cash from sources other than Federal funds. Such remainder may be provided in whole or in part from other than public sources and any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital. No refund or reduction of the remainder of the net project cost shall be made at any time unless there is at the same time a refund of a proportional amount of the Federal grant.

[*See main edition for text of (b)*]

(c) Appropriations for federal financial assistance and grants for technical studies

(1) To finance grants and loans under sections 1602, 1606(b), and 1607a of this title, the Secretary is authorized to incur obligations on behalf of the United States in the form of grant agreements or otherwise in amounts aggregating not to exceed $10,925,000,000, less amounts appropriated pursuant to section 1608(d) of this title as it read prior to November 6, 1978, and the amount appropriated to the Urban Mass Transportation Fund by Public Law 91-168. This amount (which shall be in addition to any amounts available to finance such activities under subsection (b) of this section) shall become available for obligation on October 15, 1970, and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this subsection not to exceed $80,000,000 prior to July 1, 1971, which amount may be increased to not to exceed an aggregate of $6,100,000,000 prior to July 1, 1972, not to exceed an aggregate of $710,000,000 prior to July 1, 1973, not to exceed an aggregate of

$1,260,000,000 prior to July 1, 1974, not to exceed an aggregate of $1,860,000,000 prior to July 1, 1975, and not to exceed an aggregate of $3,100,000,000 thereafter. The total amounts appropriated under this subsection and section 1608(d) of this title shall not exceed the limitations in the foregoing schedule. Sums so appropriated shall remain available until expended.

(2) Notwithstanding paragraph (1) of this subsection or any other provision of this chapter, the unobligated balance of contract authority established pursuant to paragraph (1) shall not be available for administrative commitment after September 30, 1978, and shall lapse on September 30, 1980.

(3)(A) To finance additional grants and loans under section 1602 of this title and to finance grants and contracts under subsection (i) of this section and section 1607 of this title, there are authorized to be appropriated not to exceed $1,375,000,000 for the fiscal year ending September 30, 1979; $1,410,000,000 for the year ending September 30, 1980; $1,515,000,000 for the year ending September 30, 1981; $1,600,000,000 for the fiscal year ending September 30, 1982; and $1,580,000,000 for the fiscal year ending September 30, 1983. In any fiscal year not more than five and one-half per centum of such fiscal years appropriation pursuant to this subparagraph shall be used for the purposes of subsection (i) of this section and section 1607 of this title. Appropriations pursuant to the authority of this paragraph and subsection (g) of this section may be in an appropriations Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation and shall remain available for three years following the close of the fiscal year for which such appropriation is made.

(B) In each fiscal year, not more than $200,000,000 of the sums appropriated pursuant to subparagraph (A) shall be available for grants and loans approved under section 1602(a)(1)(D) of this title.

(C) Not more than $45,000,000 of the total sums appropriated pursuant to subparagraph (A) shall be available for grants approved under section 1602(a)(1)(E) of this title.

(D) In each fiscal year, at least $350,000,000 of the sums appropriated pursuant to subparagraph (A) shall be available for grants for the reconstruction and improvement of existing public mass transportation systems.

(d) Appropriations for grants for research and training in urban transportation problems

There are authorized to be appropriated $10,000,000 in each fiscal year for the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, to carry out the functions of section 1607c(b) of this title. Sums appropriated pursuant to this subsection shall remain available until expended.

(e) Appropriations to finance grants to reimburse States and local agencies for cost of financially supporting or operating rail passenger service

To finance grants under section 1614 of this title, there are authorized to be appropriated not to exceed $90,000,000 for the fiscal year ending September 30, 1979; $100,000,000 for the fiscal year ending September 30, 1980; $110,000,000 for the fiscal year ending September 30, 1981; $120,000,000 for the fiscal year ending September 30, 1982. Sums appropriated pursuant to this subsection shall remain available until expended.

(f) Miscellaneous appropriations

There are authorized to be appropriated to carry out the functions of this chapter, other than sections 1602, 1604, 1607, 1607c(b), 1612(b), 1614, 1617, and 1618 of this title, not to exceed $90,000,000 for the fiscal year ending September 30, 1979; $95,000,000 for the fiscal year ending September 30, 1980; $100,000,000 for the fiscal year ending September 30, 1981; and $105,000,000 for the fiscal year ending September 30, 1982. Sums appropriated pursuant to this subsection for financing projects funded under section 1605 of this title shall remain available until expended.

(g) Appropriations for transportation projects substituted for withdrawn interstate segments

There are authorized to be appropriated such sums as may be necessary to carry out public transportation projects substituted for Interstate segments withdrawn under section 103(e)(4) of title 23.

(h) Annual report to Congress

(1) On or before the twentieth day of each calendar quarter the Secretary shall submit to Congress a report on (1) obligations, commitments, and reservations by State, designated recipient, and applicant, made under authority of this chapter; (2) the balance as of the last day of each quarter of the unobligated, uncommitted, and unreserved apportionments made under this chapter; (3) the balance of unobligated, uncommitted, and unreserved sums available for expenditure at the discretion of the Secretary under this chapter as of the end of such quarter; (4) a listing of letters of intent issued; and (5) a status report on all outstanding letters of intent.

(2) On or before October 1, 1979, the Secretary shall report to Congress on authorization requests for sections 1602 and 1604 of this title for fiscal years 1981 through 1984. On or before October 1, 1981, the Secretary shall report to Congress on authorization requests for sections 1602 and 1604 of this title for fiscal years 1983 through 1986. Such authorization requests shall contain a description and analysis of the methods used and the assumptions relied upon by the Secretary.

(i) Grants to States and local agencies for deployment of innovative techniques and methods in the management and operation of public transportation services

The Secretary is authorized to make grants to States and local public bodies, using sums available pursuant to subsection (c)(3)(A) of this section, for projects for the deployment of innovative techniques and methods in the management and operation of public transportation services. In each fiscal year grants for any one State shall not exceed twelve and one-half per centum of the funds available for the purposes of this subsection.

(As amended Pub. L. 95-599, title III, § 303, Nov. 6, 1978, 92 Stat. 2737.)

REFERENCES IN TEXT

Section 1607a of this title, referred to in subsec. (c), was repealed by Pub. L. 95-599, title III, § 305(a), Nov. 6, 1978, 92 Stat. 2743.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-599, § 303(b), struck out provisions prohibiting financial assistance pursuant to section 1602(a) unless the Secretary determines that facilities and equipment are needed for a program for a unified or officially coordinated urban transportation system as part of the comprehensively planned development of the urban area, that such program encourages participation of private enterprise, and that currently used facilities and equipment be improved to better serve the transportation needs of the area.

Subsec. (c). Pub. L. 95-599, § 303(c), designated existing provisions as par. (1), and in par. (1) as so designated, added "as it read prior to November 6, 1978" following "section 1608(d) of this title" and struck out "Of the total amount available to finance activities under this chapter (other than under section 1604 of this title) on and after November 26, 1974, not to exceed $500,000,000 shall be available exclusively for assistance in areas other than urbanized areas (as defined in section 1604(a)(3) of this title)." following "available until expended", and added pars. (2) and (3).

Subsec. (d). Pub. L. 95-599, § 303(a), substituted provisions authorizing the appropriation of $10,000,000 for each of fiscal years ending Sept. 30, 1979, 1980, 1981 and 1982 to carry out the functions of section 1607c(b), such sums to remain available until expended, for provisions relating to annual reports to Congress with respect to outstanding grants or other contractual agreements executed pursuant to subsection (c) of this section.

Subsecs. (e) to (i). Pub. L. 95-599, § 303(e), added subsecs. (e) to (i).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1602, 1604, 1605, 1612, 1614, 1617 of this title.

§ 1604. Urban mass transit grant program

(a) Grants for construction or operating assistance; apportionment of funds; authorization of appropriations

(1)(A) To make grants for construction or operating assistance purposes under this subsection, the Secretary shall apportion for expenditure in fiscal years 1975 through 1980 the sums authorized by subsection (c)(1) of this section and appropriated pursuant to subsection (c)(2) of this section. For subsequent fiscal years, the Secretary shall apportion the sums appropriated pursuant to subparagraph (B) of this paragraph. Such sums shall be made available for expenditure in urbanized areas or parts thereof on the basis of a formula under which urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

(i) one-half of the total amount so apportioned multiplied by the ratio which the population of such urbanized area or part thereof, as designated by the Bureau of Census, bears to the total population of all the urbanized areas in all the States as shown by the latest available Federal census; and

(ii) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in this section, the term "density" means the number of inhabitants per square mile.

(B) There are authorized to be appropriated for the purposes of this paragraph, $900,000,000 in each fiscal year for the fiscal years ending September 30, 1981, and September 30, 1982.

(2)(A) To make grants for construction or operating assistance purposes under this subsection, the Secretary shall apportion for expenditure in each fiscal year the sums appropriated pursuant to subparagraph (B) of this paragraph.

(i) Eighty-five per centum of such sums shall be made available for expenditure in only those urbanized areas or parts thereof with a population of 750,000 or more, and on the basis of a formula under which such urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

(1) one-half of the total amount so apportioned multiplied by the ratio which the population of such an urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all such urbanized areas in all the States as shown by the latest available Federal census; and

(2) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in the preceding sentence, the term "density" means the number of inhabitants per square mile.

(ii) Fifteen per centum of such sums shall be made available for expenditure in only those urbanized areas or parts thereof with a population of less than 750,000 and on the basis of a formula under which such urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

(1) one-half of the total amount so apportioned multiplied by the ratio which the population of such an urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all such urbanized areas in all the States as shown by the latest available Federal census; and

(2) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in the preceding sentence, the term "density" means the number of inhabitants per square mile.

(B) There are authorized to be appropriated for the purposes of this paragraph $250,000,000 for the fiscal year ending September 30, 1979; $250,000,000 for the fiscal year ending September 30, 1980; $250,000,000 for the fiscal year ending September 30, 1981; and $250,000,000 for the fiscal year ending September 30, 1982.

(3)(A) To make grants for construction and operating assistance projects under this subsec-

tion involving commuter rail or other fixed guideway systems, the Secretary shall apportion for expenditure in each fiscal year the sums appropriated pursuant to subparagraph (B) of this paragraph. Such sums shall be made available for expenditure in urbanized areas or parts thereof on the basis of a formula under which urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

(i) two-thirds of the total amount to be apportioned as follows: one-half multiplied by a ratio which the number of commuter rail train miles operated within or serving the urbanized area in the prior fiscal year bears to the total number of commuter rail train miles operated in or serving all urbanized areas in the prior fiscal year, and one-half multiplied by a ratio which the number of commuter rail route miles operated within or serving the urbanized area in the prior fiscal year bears to the total number of commuter rail route miles operated in or serving all urbanized areas in the prior fiscal year. No single eligible State's portion of an urbanized area shall receive in any fiscal year less than one-half per centum or more than thirty per centum of the sums appropriated for such fiscal years pursuant to this clause;

(ii) one-third of the total amount to be apportioned multiplied by the ratio that the number of fixed guideway system route miles (excluding commuter rail route miles) in the urbanized area in the prior fiscal year bears to the total number of such fixed guideway system route miles (excluding commuter rail route miles) in all urbanized areas in the prior fiscal year. For the purposes of the calculation to be made under this subparagraph, no single State's portion of an urbanized area shall receive more than 30 per centum of the sums appropriated for such fiscal year pursuant to this clause.

Sums apportioned under this paragraph shall be available for expenditure only for construction or operating assistance projects involving commuter rail or other fixed guideway systems.

(B) There are authorized to be appropriated for the purposes of this paragraph, $115,000,000 for the fiscal year ending September 30, 1979; $130,000,000 for the fiscal year ending September 30, 1980; $145,000,000 for the fiscal year ending September 30, 1981; and $160,000,000 for the fiscal year ending September 30, 1982.

(4)(A) To make grants under this subsection for the purchase of buses and related equipment, or the construction of bus related facilities, the Secretary shall apportion in each fiscal year the sums appropriated pursuant to subparagraph (B) of this paragraph. In fiscal years 1979 and 1980, the apportionments shall be made in accordance with the population density formula set out in subsection (a)(1)(A) of this section. Sums apportioned under this paragraph shall be available only for projects for the purchase of buses and related equipment, and the construction of bus related facilities, except that projects assisted pursuant to section 1602(h) of this title may utilize funds apportioned under this section for any eligible construction project.

(B) There are authorized to be appropriated for the purposes of this paragraph $300,000,000 for the fiscal year ending September 30, 1979; $300,000,000 for the fiscal year ending September 30, 1980; $370,000,000 for the fiscal year ending September 30, 1981; and $455,000,000 for the fiscal year ending September 30, 1982.

(b) Designation of recipients to receive and dispense funds; annual report to Secretary

(1) The Governor, responsible local officials, and publicly owned operators of mass transportation services, in accordance with the planning process required under section 1607 of this title, with the concurrence of the Secretary, shall designate a recipient or recipients to receive and dispense the funds apportioned under subsection (a) of this section that are attributable to urbanized areas of two hundred thousand or more population. In any case in which a statewide or regional agency or instrumentality is responsible under State laws for the financing, construction and operation, directly, by lease, contract or otherwise, of public transportation services, such agency or instrumentality shall be the recipient to receive and dispense such funds. The term "designated recipient" as used in this section shall refer to the recipient selected according to the procedures required by this paragraph.

(2) Sums apportioned under subsection (a) of this section not made available for expenditure by designated recipients in accordance with the terms of paragraph (1) of this subsection shall be made available to the Governor for expenditures in urbanized areas or parts thereof in accordance with the planning process required under section 1607 of this title and shall be fairly and equitably distributed. The Governor shall submit annually a report to the Secretary concerning the allocation of funds made available under this paragraph.

(c) Grants, contract, etc., obligations for financing grants; maximum amount; authorization of appropriations for liquidation of obligations; additional appropriations available for apportionment; availability of apportioned sums for obligation

[*See main edition for text of (1)*]

(2) In addition to sums authorized in paragraph (1) of this subsection, there is authorized to be appropriated for the fiscal year ending September 30, 1980, the additional amount of $125,000,000. This amount shall be available for apportionment pursuant to subsection (a)(1) of this section.

(3) Appropriations pursuant to this section shall be available until expended.

(4) Sums apportioned under this section shall be available for obligation by the Governor or designated recipient for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be added to the amount available for apportionment under this section for the succeeding fiscal year, except that any funds authorized by subsec. (a)(3) and (4) of this section which are so reapportioned shall remain subject to the limitations applicable to the original apportionment of such funds.

[*See main edition for text of (d) and (e)*]

(f) Federal funds available for expenditure for mass transportation projects supplementary to average amount of State and local government funds, etc., expended for operations; reduction of State and local government funds

Federal funds available for expenditure for mass transportation projects under this section and apportioned for fiscal years ending prior to October 1, 1981, shall be supplementary to and not in substitution for the average amount of State and local government funds and other transit revenues such as advertising concessions, and property leases, excluding reimbursement payments for the transportation of schoolchildren, expended on the operation of mass transportation service in the area involved for the two fiscal years preceding the fiscal year for which the funds are made available: *Provided, however,* That if such State and local government funds or other transit revenues are reduced, there shall be no loss of Federal assistance under this section if such reduction is offset by an increase in operating revenues through changes in fare structure. Nothing in the preceding sentence shall be construed as preventing State or local tax revenues which are used for the operation of mass transportation service in the area involved from being credited (to the extent necessary) toward the non-Federal share of the cost of the project. Where the Secretary finds that a recipient has reduced operating costs without reducing service levels the recipient shall be entitled to make a proportionate reduction in the amount of transit revenues required to be expended under this subsection.

(g) Project as part of approved program of projects prior to approval; eligibility of recipient

The Secretary shall not approve a grant or loan for a project under this section unless he finds that such project is part of the approved program of projects required by section 1607 of this title, and that the applicant or responsible agency has or will have—

(1) the legal, financial, and technical capacity to carry out the proposed project; and

(2) satisfactory continuing control, through operation or lease or otherwise, over the use of project facilities and equipment.

[*See main edition for text of (h)*]

(i) Certification by Governor or designated recipient to Secretary of compliance with procedures for determination of environmental, etc., impact of proposed projects; report

Upon submission for approval of a proposed project under this section, the Governor or the designated recipient of the urbanized area shall certify to the Secretary that he or it has conducted public hearings (or has afforded the opportunity for such hearings) and that these hearings included (or were scheduled to include) consideration of the economic and social effects of such project, its impact on the environment, including requirements under the Clean Air Act [42 U.S.C. 7401 et seq.], the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.], and other applicable Federal environmental statutes, and its consistency with the goals and objectives of such urban planning as has been promulgated by the community. Such certification shall be accompanied by (1) a report which indicates the consideration given to the economic, social, environmental, and other effects of the proposed project, including, for construction projects, the effects of its location or design, and the consideration given to the various alternatives which were raised during the hearing or which were otherwise considered, (2) upon the Secretary's request, a copy of the transcript of the hearings, and (3) assurances satisfactory to the Secretary that any public mass transportation system receiving financial assistance under such project will not change any fare and will not substantially change any service except (A) after having held public hearings or having afforded an adequate opportunity for such hearings, after adequate public notice, (B) after having given proper consideration to views and comments expressed in such hearings, and (C) after having given consideration to the effect on energy conservation, and the economic, environmental, and social impact of the change in such fare or such service.

[*See main edition for text of (j) to (n)*]

(As amended Pub. L. 95-599, title III, § 304, Nov. 6, 1978, 92 Stat. 2739; Pub. L. 96-106, § 17, Nov. 9, 1979, 93 Stat. 799.)

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (i), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see short Title note set out under section 7401 of Title 42 and Tables.

AMENDMENTS

1979—Subsec. (a)(2)(A). Pub. L. 96-106, § 17(a), substituted "subparagraph (B)" for "subparagraph (C)".

Subsec. (a)(2)(B), (C). Pub. L. 96-106, § 17(b), redesignated subpar. (C) of subsec. (a)(2) as (B). Subsec. (a)(2) was enacted without a subpar. (B).

Subsec. (a)(3)(A). Pub. L. 96-106, § 17(c), substituted "construction" for "capital" in provision following clause (ii).

Subsec. (a)(4)(A). Pub. L. 96-106, § 17(d), substituted "and the construction of bus-related facilities" for "in the construction of bus related facilities".

1978—Subsecs. (a), (b). Pub. L. 95-599, § 304(a), amended subsecs. (a) and (b) generally, omitting subsec. (a) which contained definitions, redesignating subsec. (b)(1), (2), and (3) as (a)(1), (b)(1), and (b)(3), respectively, and adding subsec. (a)(2) to (4).

Subsec. (c)(2). Pub. L. 95-599, § 304(b), substituted "In addition to sums authorized in paragraph (1) of this subsection, there is authorized to be appropriated for the fiscal year ending September 30, 1980, the additional amount of $125,000,000. This amount shall be available for apportionment pursuant to subsection (a)(1) of this section" for "Sums apportioned under this section shall be available for obligation by the Governor or designated recipient for a period of two years following the close of the fiscal year for which such sums are apportioned, and any amounts so apportioned remaining unobligated at the end of such period shall lapse and shall be returned to the Treasury for deposit as miscellaneous receipts".

Subsec. (c)(3), (4). Pub. L. 95-599, § 304(c), added pars. (3) and (4).

Subsec. (f). Pub. L. 95-599, § 304(d), added "and apportioned for fiscal years ending prior to October 1, 1981" following "projects under this section", added "excluding reimbursement payments for the transportation of schoolchildren" following "and property leases", added the proviso that there be no loss of federal assistance if reduction in State or local government funds or other transit revenues is offset by an increase in operating revenues through changes in fare structure", substituted "Nothing in the preceding sentence" for "but nothing in this sentence" struck out "for the purposes of the preceding sentence" following "cost of the project" and added provision entitling recipient to make proportionate reduction in the amount of transit revenues where recipient has reduced operating costs without reducing service levels.

Subsec. (g). Pub. L. 95-599, § 304(e), substituted provisions relating to approval of grants or loans for projects which are part of approved program of projects required by section 1607, and relating to applicant's legal, etc., capacity and continuing control over the use of the project, for provisions relating to development of plans and programs of transportation systems for urbanized areas, scope and implementation of projects, cutoff date for approval of projects, submission by Governor or designated recipient and approval by Secretary of program of projects for utilization of funds; consideration and comments on programs.

Subsec. (i)(3). Pub. L. 95-599, § 304(f), added cl. (3).

EVALUATION OF PROCUREMENT PROCESS FOR PURCHASE OF ROLLING STOCK

Section 309 of Pub. L. 95-599, which required the Secretary of Transportation to evaluate the procurement process utilized for the purchase of rolling stock and other technical equipment purchased with Federal financial assistance under this chapter and from whom purchased and, not later than July 1, 1979, report to Congress the results of the evaluation, was omitted from the Code as executed.

STUDY OF ALTERNATIVE METHODS OF DISTRIBUTING FUNDS APPORTIONED FOR CAPITAL PURPOSES

Section 319 of Pub. L. 95-599, which provided that the Secretary of Transportation conduct a study of the alternative methods of distributing, by formula, funds apportioned for capital purposes under subsec. (a)(4) of this section and report to the Congress not later than Jan. 1, 1980, the results of such study and that the Secretary prepare and submit to certain congressional committees on or before Jan. 1, 1980, recommendations as to ways and means by which Federal mass transit funds can be allocated on a basis which considers the nature and extent of air pollution as a criterion for the distribution of such funds, was omitted from the Code as executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1602, 1603, 1608, 1611, 1613 of this title; title 42 section 3013.

§ 1605. Research, development, and demonstration projects

WATERBORNE TRANSPORTATION DEMONSTRATION PROJECT

Pub. L. 95-599, title III, § 320, Nov. 6, 1978, 92 Stat. 2753, provided that:

"(a) The Secretary of Transportation shall carry out a demonstration project using high-speed water-borne transportation equipment and facilities and operating in, and in the vicinity of, New York, New York, for the purpose of determining the feasibility of utilizing this technology in providing certain public mass transportation service. The Secretary shall report to Congress the results of such project no later than September 30, 1981, together with his recommendations.

"(b) There is authorized to be appropriated to carry out the provisions of subsection (a) not to exceed $25,000,000."

RAILROAD GRADE CROSSING ELIMINATION DEMONSTRATION PROJECT IN HAMMOND, INDIANA; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 93-503, title III, § 301, 302, Nov. 26, 1974, 88 Stat. 1575, relating to a demonstration project for elimination of highway railroad grade crossings in Hammond, Indiana, was repealed by Pub. L. 95-599, title I, § 134(d), Nov. 6, 1978, 92 Stat. 2709.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1603, 1612 of this title.

§ 1607. Long-range planning and technical studies

(a) Development of transportation plans and programs; matters considered

It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with the State and local officials in the development of transportation plans and programs which are formulated on the basis of transportation needs with due consideration to comprehensive long-range land use plans, development objectives, and overall social, economic, environmental, system performance, and energy conservation goals and objectives, and with due consideration to their probable effect on the future development of urban areas of more than fifty thousand population. The planning process shall include an analysis of alternative transportation system management and investment strategies to make more efficient use of existing transportation facilities. The process shall consider all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems.

(b) Urbanized area planning process

(1) The urbanized area planning process shall be carried on by local officials acting through a metropolitan planning organization in cooperation with the State.

(2) Within one year after November 6, 1978, in the absence of State law to the contrary, units of general purpose local government within an urbanized area or contiguous urbanized areas for which a metropolitan planning organization has been designated prior to November 6, 1978, may by agreement of at least 75 per centum of the units of general purpose local government representing at least 90 per centum of the population of such urbanized area or areas and in cooperation with the Governor, redesignate as the metropolitan planning organization any representative organization.

(3) Except as provided in subparagraph (B), after November 6, 1978, designations of metropolitan planning organizations shall be by agreement among the units of general purpose local government and the Governor.

(c) Approval of program of projects by Secretary

A program of projects eligible for assistance under this chapter shall be submitted for approval to the Secretary. The Secretary shall not approve for an urbanized area any such program of projects in whole or in part unless (1) the Secretary finds that the planning process on which such program is based is being carried on in conformance with the objectives of this section, and (2) the Secretary finds that the program of projects is based on the planning process.

(d) Contracts and grants to States and local agencies for planning, etc., of transportation projects

The Secretary is authorized to contract for and make grants to States and local public bodies and agencies thereof for the planning, engineering, designing, and evaluation of public transportation projects, and for other technical studies. Activities assisted under this section may include (1) studies relating to management, operations, capital requirements, and economic feasibility; (2) preparation of engineering and architectural surveys, plans, and specifications; (3) evaluation of previously funded projects; and (4) other similar or related activities preliminary and in preparation for the construction, acquisition, or improved operation of mass transportation systems, facilities, and equipment. A grant or contract under this section shall be made in accordance with criteria established by the Secretary.

(e) Participation of private enterprise

The plans and programs required by this section shall encourage to the maximum extent feasible the participation of private enterprise. Where facilities and equipment are to be acquired which are already being used in mass transportation service in the urban area, the program must provide that they shall be so improved (through modernization, extension, addition, or otherwise) that they will better serve the transportation needs of the area.

(Pub. L. 88-365, § 8, as added Pub. L. 95-599, title III, § 305(b), Nov. 6, 1978, 92 Stat. 2743.)

PRIOR PROVISIONS

A prior section 1607, Pub. L. 88-365, § 8, July 9, 1964, 73 Stat. 306; Pub. L. 90-19, § 20(a), May 25, 1967, 81 Stat. 25, which called for consultation between the Secretary of Housing and Urban Development and the Secretary of Commerce on general urban transportation policies and programs and for the exchange of information on proposed projects in urban areas, was repealed by Pub. L. 95-599, title III, § 305(a), Nov. 6, 1978, 92 Stat. 2743.

BASIC TRANSPORTATION SYSTEM STUDY; REPORT TO CONGRESS

Section 318 of Pub. L. 95-599, which required the Secretary of Transportation to study establishing and operating a mass transportation system which would provide basic services with a minimum of amenities, at low costs, and report to Congress not later than 1 year after Nov. 6, 1978, the results of the study, was omitted from the Code as executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1602, 1603, 1604 of this title.

§ 1607a. Repealed. Pub. L. 95-599, title III, § 305(a), Nov. 6, 1978, 92 Stat. 2743

Section, Pub. L. 88-365, § 9, as added Pub. L. 89-562, § 2(a)(2), Sept. 8, 1966, 80 Stat. 715, and amended Pub. L. 93-87, title III, § 301(d), Aug. 13, 1973, 87 Stat. 295, related to grants to States and local public bodies and agencies for planning, etc., of urban mass transportation projects. See section 1607(d) of this title.

§ 1607b. Grants for managerial, technical and professional training programs; basis of selection for fellowships; amount of fellowship

The Secretary is authorized to make grants to States, local public bodies, and agencies thereof (and operators of public transportation services) to provide fellowships for training of personnel employed in managerial, technical, and professional positions in the public transportation field. Fellowships shall be for not more than one year of training in public or private training institutions offering programs having application in the public transportation industry. The recipient of a fellowship under this section shall be selected by the grantee on the basis of demonstrated ability and for the contribution which the recipient can be reasonably expected to make to an efficient public transportation operation. The assistance under this section toward each fellowship shall not exceed the lesser of $24,000 or 75 per centum of the sum of (1) tuition and other charges to the fellowship recipient, (2) any additional costs incurred by the training institution in connection with the fellowship and billed to the grantee, and (3) the regular salary of the fellowship recipient for the period of the fellowship (to the extent that salary is actually paid or reimbursed by the grantee).

(As amended Pub. L. 95-599, title III, § 306, Nov. 6, 1978, 92 Stat. 2744.)

AMENDMENTS

1978—Pub. L. 95-599 expanded subsec. (a) to include grants to operators of public transportation services, allow training in the public transportation field instead of only the urban mass transportation field, permit study at for-profit instead of only nonprofit institutions, allowing unlimited numbers of scholarships instead of only one hundred per year, and raising the amount of the grant by substituting "the lesser of $24,000 or 75 per centum" for "$12,000, nor 75 per centum", and struck out subsecs. (b) and (c).

§ 1607c. Grants for research and training in urban transportation problems; grants for establishment and operation of transportation centers at nonprofit institutions of higher learning

[*See main edition for text of* (a)]

(b)(1) In addition to grants authorized by subsection (a) of this section, the Secretary is authorized to make grants for the purpose of establishing and operating transportation centers at nonprofit institutions of higher learning.

(2) The institutions receiving assistance under this subsection shall be selected by the Secretary, in coordination with State transportation agencies or departments, on the basis of demonstrated research and extension resources capable of contributing to the solution of State and regional transportation problems.

(3) The responsibilities and duties of each transportation center shall include, but not be limited to, the conduct of competent research investigations, both scientific and policy oriented, and experiments of either a basic or practical nature in relation to transportation problems.

(4) In order for an institution to receive Federal funds under this subsection, subject to the conditions set forth therein, such institution, in coordination with the State in which the institution is located (or, in the case of multi-institutional programs authorized under paragraph (6) of this subsection, in coordination with the States in which the participating institutions are located) shall submit to the Secretary for his approval a program or programs of proposed projects for the academic year for the utilization of such funds. The Secretary shall act upon programs submitted to him by March 15 preceding the fiscal year for which application for assistance is made (except in the case of fiscal year 1979, for which the Secretary shall act upon programs submitted to him as soon as practicable).

(5) As a condition to project approval, the State in which a selected institution is located must equally match from other than Federal funds, the amount of the Federal grant.

(6) Upon the joint application of two or more institutions of higher learning, the Secretary may approve a multi-institutional program to address regional transportation problems, subject to conditions set forth in this subsection.

(7) On or before July 1 of each fiscal year for which funds have been appropriated under this subsection, each participating institution shall submit a report to the Secretary on its activities and progress in solving transportation problems. On or before October 1 of each such fiscal year, the Secretary shall submit a report to Congress on the activities and progress of the program authorized by this subsection in solving transportation problems and achieving national transportation policy objectives.

(As amended Pub. L. 95-599, title III, § 307, Nov. 6, 1978, 92 Stat. 2745.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-599 designated existing provisions as par. (1), and in par. (1) as so designated, substituted provisions authorizing the Secretary to make grants to establish and operate transportation centers at nonprofit institutions of higher learning for provisions authorizing the Secretary to make available not to exceed $3,000,000 per annum of the grant funds appropriated pursuant to section 1603(b) to finance grants under this section, and added pars. (2) to (7).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1603 of this title.

§ 1608. General provisions

[See main edition for text of (a)]

(b) Records; audit and examination; award of contracts for acquisition of rolling stock

(1) All contracts for construction, reconstruction, or improvement of facilities and equipment in furtherance of the purposes for which a loan or grant is made under this chapter, entered into by applicants under other than competitive bidding procedures as defined by the Secretary, shall provide that the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, have access to any books, documents, papers, and records of the contracting parties that are pertinent to the operations or activities under such contracts.

(2) After September 30, 1979, contracts for the acquisition of rolling stock, including buses, which will result in the expenditure of Federal financial assistance under this chapter, may be awarded based on consideration of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs. Where necessary, the Secretary shall assist grantees in making such evaluations.

(c) Definitions

As used in this chapter—

(1) the term "construction" means the supervising, inspecting, actual building, and all expenses incidental to the acquisition, construction, or reconstruction of facilities and equipment for use in public transportation, including designing, engineering, location surveying, mapping, acquisition of rights-of-way, relocation assistance, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of replacement housing;

(2) the term "fixed guideway" means any public transportation facility which utilizes and occupies a separate right-of-way for the exclusive use of public transportation service including, but not limited to, fixed rail, automated guideway transit, and exclusive facilities for buses and other high occupancy vehicles;

(3) the term "Governor" means the ranking executive officer or his designate for each of the jurisdictions included in the definition of "State";

(4) the term "handicapped person" means any individual who by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, including any person who is wheelchair bound or has semiambulatory capabilities, is unable without special facilities or special planning or design to utilize public transportation facilities and services effectively. The Secretary may, by regulation, adopt modifications of this definition for purposes of section 1604(m) of this title;

(5) the term "local public bodies" includes municipalities and other political subdivisions of States; public agencies and instrumentalities of one or more States, municipalities and political subdivisions of States; Indian tribes; and public corporations, boards, and commissions established under the laws of any State;

(6) the term "mass transportation" means transportation by bus, or rail, or other conveyance, either publicly or privately owned, which provides to the public general or special service (but not including school buses or

charter or sightseeing service) on a regular and continuing basis;

(7) the term "public transportation" means mass transportation;

(8) the term "Secretary" means the Secretary of Transportation;

(9) The term "States" means the several States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands;

(10) the term "urban area" means any area that includes a municipality or other built-up place which is appropriate, in the judgment of the Secretary, for a public transportation system to serve commuters or others in the locality taking into consideration the local patterns and trends of urban growth; and

(11) the term "urbanized area" means an area so designated by the Bureau of Census, within boundaries which shall be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary, and which shall at a minimum, in case of any such area, encompass the entire urbanized area within a State as designated by the Bureau of Census.

(d) Regulation of operation of system, rates, rentals, or other charges; compliance with undertakings

None of the provisions of this chapter shall be construed to authorize the Secretary to regulate in any manner the mode of operation of any mass transportation system with respect to which a grant is made under section 1602 of this title or, after such grant is made, to regulate the rates, fares, tolls, rentals, or other charges fixed or prescribed for such system by any local public or private transit agency; but nothing in this subsection shall prevent the Secretary from taking such actions as may be necessary to require compliance by the agency or agencies involved with any undertakings furnished by such agency or agencies in connection with the application for the grant.

(e) Prohibition on use of Federal financial assistance for transfer of land, etc., between public bodies in geographical proximity

None of the provisions of this chapter shall be construed to authorize Federal financial assistance for the purpose of financing the acquisition by one public body of land, facilities, or equipment used in mass transportation from another public body in the same geographic area.

(f) Petition for exemption from interstate commerce provisions; procedure

(1) A State or local public body may petition the Interstate Commerce Commission for an exemption from subchapter II of chapter 105 of this title for mass transportation services provided by such State or local public body or provided to such State of[1] local public body by contract. Not later than one hundred and eighty days after the date such petition is received by the Commission, the Commission shall, after notice and reasonable opportunity for a hearing on such petition, by order, exempt such State or local public body or contractor from subchapter II of chapter 105 of this title with respect to such mass transportation services to the extent and for such time as it specifies in such order, unless the Commission finds that—

(A) the public interest would not be served by such exemption,

(B) the exemption requested would result in an undue burden on the interstate or foreign commerce, or

(C) the mass transportation services, including rates, proposed to be exempt are not subject to regulation by any State or local public agency.

(2) Any State or local public body granted an exemption under paragraph (1) of this subsection shall be subject to all applicable Federal laws pertaining to (A) safety, (B) the representation of employees for purposes of collective bargaining, (C) retirement, annuities, and unemployment systems, and (D) all other provisions of law relating to employee-employer relations. The Commission, upon its own initiative or upon petition of an interested party, may alter, amend, or revoke any exemption under paragraph (1) of this subsection if it subsequently finds that new evidence, material error, or changed circumstances exist which materially affect its original order.

(g) Bids for passenger seats functional specifications

In the case of any buses acquired with Federal financial assistance provided under this chapter, the Secretary shall permit the State or local body which is acquiring such buses to provide in advertising for bids for passenger seats functional specifications (which equal or exceed the performance specifications prescribed by the Secretary), based on that State or local body's determination of local requirements for safety, comfort, maintenance and life cycle costs. This subsection shall apply to the initial advertising for bids for the acquisition of buses occurring on or after November 6, 1978.

(As amended Pub. L. 95–599, title III, § 308, Nov. 6, 1978, 92 Stat. 2745.)

CODIFICATION

In subsec. (f)(1), "subchapter II of chapter 105 of this title" was substituted for "part II of the Interstate Commerce Act" on authority of section 3(b) of Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV (§ 10101 et seq.) of this title.

AMENDMENTS

1978—Subsec. (b). Pub. L. 95–599, § 308(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 95–599, § 308(b), substituted the definitions of the terms "construction" for "States" in par. (1), "fixed guideway" for "local public bodies" in par. (2), "Governor" for "Secretary" in par. (3), "handicapped person" for "urban area" in par. (4), "local public bodies" for "mass transportation" in par. (5), and added pars. (6) to (11).

Subsec. (d). Pub. L. 95–599, § 308(c), redesignated former subsec. (e) as (d). Former subsec. (d), authorizing appropriations, was struck out.

Subsec. (e). Pub. L. 95–599, § 308(d), added subsec. (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 95–599, § 308(d), added subsec. (f). Former subsec. (f), relating to a prohibition on sex discrimination, was struck out, and is covered by section 1615 of this title.

[1] So in original. Probably should be "or".

Subsec. (g). Pub. L. 95-599, § 308(d), added subsec. (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1603, 1618, 10504 of this title.

§ 1609. Labor standards

CODIFICATION

Section 5(2)(f) of this title, referred to in subsec. (c), was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of this title, and is now covered by section 11347 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1602, 1604, 1613, 1614, 1617, 1618 of this title.

§ 1610. Environmental protection

CHANGE OF NAME

The Secretary of Health, Education, and Welfare was redesignated the Secretary of Health and Human Services by section 3508 of Title 20, Education.

§ 1611. Reporting system and uniform system of accounts; development, testing, etc.; purposes; implementation; coverage as precondition for future award of grants; report to Congress

[*See main edition for text of* (a) *and* (b)]

(c) The Secretary shall, not later than July 1, 1979, report to Congress on the systems prescribed under authority of this section, together with his recommendations for any further legislation, if any, he deems necessary in connection with such systems.

(As amended Pub. L. 95-599, title III, § 310, Nov. 6, 1978, 92 Stat. 2748.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-599 added subsec. (c).

§ 1612. Planning and design of mass transportation facilities to meet special needs of the elderly and the handicapped

[*See main edition for text of* (a)]

(b) Grants and loans for special projects to meet the needs of elderly and handicapped persons

In addition to the grants and loans otherwise provided for under this chapter, the Secretary is authorized to make grants and loans—

[*See main edition for text of* (1) *and* (2)]

Of the total amount authorized to be appropriated pursuant to section 1603(c)(3) of this title, 2 per centum may be set aside and used exclusively to finance the programs and activities authorized by this subsection (including administrative costs).

[*See main edition for text of* (c)]

(d) Repealed. Pub. L. 95-599, title III, § 311(b), Nov. 6, 1978, 92 Stat. 2748

(As amended Pub. L. 95-599, title III, § 311, Nov. 6, 1978, 92 Stat. 2748.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-599, § 311(a), substituted "Of the total amount authorized to be appropriated pursuant to section 1603(c)(3) of this title, 2 per centum may be set aside and used exclusively to finance the programs and activities authorized by this subsection (including administrative costs)" for "Of the total amount of the obligations which the Secretary is authorized to incur on behalf of the United States under the first sentence of section 1603(c) of this title, 2 per centum may be set aside and used exclusively to finance the programs and activities authorized by this subsection (including administrative costs)".

Subsec. (d). Pub. L. 95-599, § 311(b), struck out subsec. (d), which defined "handicapped person" for purposes of this chapter.

ACCESSIBILITY AND USABILITY OF FIXED-GUIDEWAY PUBLIC TRANSPORTATION SYSTEMS BY HANDICAPPED PERSONS; ESTIMATES OF COSTS OF IMPROVEMENT

Section 321 of Pub. L. 95-599 provided that:

"(a)(1) Beginning in fiscal year 1979, the Secretary of Transportation shall provide Federal financial assistance under section 8 of the Urban Mass Transportation Act of 1964 [section 1607 of this title] to operators of fixed-guideway public mass transportation systems for the purpose of developing detailed estimates of the cost of making improvements to existing fixed-guideway public mass transportation systems to make such systems accessible to and usable by handicapped persons. Not later than January 30, 1980, the Secretary shall compile the results of these evaluations and report to Congress the results, together with his recommendations for such legislation as may be necessary to finance the improvements set forth in the cost estimates.

"(2) In developing detailed estimates of the cost of improvements needed to make existing fixed-guideway public mass transportation systems accessible to and usable by handicapped persons, operators of such system shall provide comments on the desirability of the improvements, taking into account projected use of the improvements, the operational characteristics of the system, and such other factors as the operators may deem appropriate. Under rules set forth by the Secretary of Transportation, operators shall submit all such comments and cost estimates to organizations representing handicapped persons. Such organizations shall be afforded ninety days to submit comments to the Secretary.

"(3) Cost estimates developed with assistance under this section, to the extent they are not deemed unreasonable by the Secretary of Transportation, may serve as the basis for cost estimates in plans required by the Secretary for meeting the requirements of section 504 of the Rehabilitation Act of 1973 [section 794 of Title 29, Labor].

"(b) The Secretary of Transportation shall make an evaluation of the light-rail public mass transportation mode (including trolleys, streetcars, cablecars, and other fixed-guideway conveyances utilizing at-grade rights-of-way portions of which are shared with other street traffic) and the commuter rail public mass transportation mode to determine ways to make, and the desirability of making, such modes accessible to and usable by handicapped persons. The Secretary shall report to Congress the results of this evaluation not later than January 30, 1980, together with his recommendations for legislation necessary to clarify or to change Federal laws or provisions pertaining to accessibility requirements affecting the light-rail and commuter rail modes."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1603 of this title; title 42 section 3013.

§ 1613. Emergency financial assistance

(a) Purposes of reimbursement

The Secretary shall provide financial assistance for the purpose of reimbursing—

(1) the Consolidated Rail Corporation, the National Railroad Passenger Corporation, other railroads, and, if applicable, the trustee or trustees of a railroad in reorganization in the region (as defined in section 702 of title 45) for the costs of rail passenger service operations conducted at a loss during the 180-day mandatory operation period, as required under section 744(e) of title 45. Such reimbursement shall cover all costs not otherwise paid by a State or a local or regional transportation authority which would have been payable by such State or authority, pursuant to regulations issued by the Office under section 10362(b)(5) of this title if such regulations had been in effect on the date of conveyance of rail properties under section 743(b)(1) of title 45; and

[*See main edition for text of* (2), (b) *and* (c)]

(d) Federal share of costs of rail passenger service; duration

The Federal share of the costs of any rail passenger service required by subsections (c) and (e) of section 744 of title 45 shall be as follows:

(1) 100 percent of the costs eligible under subsections (a)(1) or (a)(2) of this section for the 180-day mandatory operation period required by section 744(e) of title 45;

(2) 100 percent for the 180-day period following the 180-day mandatory operation period;

(3) 90 percent for the 12-month period succeeding the period specified in subparagraph (2) of this subsection; and

(4) 80 percent for the period ending September 30, 1978.

[*See main edition for text of* (e)]

(f) Funding authority; authorization of appropriations for liquidation of obligations funding assistance programs

To finance assistance under this section, the Secretary may incur obligations on behalf of the United States in the form of grants, contract agreements, or otherwise, in such amounts as are provided in appropriations Acts, in an aggregate amount not to exceed $125,000,000. There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $40,000,000 by September 30, 1976, $95,000,000 by September 30, 1977 and $125,000,000 by September 30, 1978, such sums to remain available until expended.

(As amended Pub. L. 95-187, § 1, Nov. 16, 1977, 91 Stat. 1385; Pub. L. 95-599, title III, § 312(a), (b), Nov. 6, 1978, 92 Stat. 2748.)

CODIFICATION

In subsec. (a)(1), "section 10362(b)(5) of this title" was substituted for "section 715(d)(5) of title 45" on authority of section 3(b) of Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV (§ 10101 et seq.) of this title.

AMENDMENTS

1978—Subsec. (d). Pub. L. 95-599, § 312(a), added "and" following "subsection" in par. (3), substituted "period ending September 30, 1978." for "180-day period succeeding the period specified in subparagraph (3) of this subsection" in par. (4), and struck out par. (5) mandating as the Federal share 50 percent for the 24-month period succeeding the period specified in subparagraph (4) of this subsection.

Subsec. (f). Pub. L. 95-599, § 312(b), substituted "not to exceed $125,000,000" for "not to exceed $185,000,000" and "such sums to remain available until expended" for "$155,000,000 by September 30, 1979, and $185,000,000 by September 30, 1980".

1977—Subsec. (d). Pub. L. 95-187, § 1(1) to (5), substituted in par. (4) "80 percent" for "50 percent", added par. (5), and struck out closing provisions relating to assurances to the Secretary that the service for which assistance is sought will be continued after the termination of assistance authorized by this section where such assistance is provided beyond the time specified in par. (3).

Subsec. (f). Pub. L. 95-187, § 1(6), substituted "$185,000,000" for "$125,000,000", added provisions authorizing to be appropriated for liquidation of obligations incurred under this section not to exceed $155,000,000 by Sept. 30, 1979, and $185,000,000 by Sept. 30, 1980, and struck out provision that the authorized sums remain available until expended.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10362 of this title; title 45 section 744.

§ 1614. Formula grant program for areas other than urbanized areas

(a) Apportionment of appropriated sums

The Secretary shall apportion for expenditure in each fiscal year the sums appropriated pursuant to section 1603(e) of this title. Such sums shall be made available for expenditure for public transportation projects in areas other than urbanized areas on the basis of a formula under which the Governor of each State will be entitled to receive an amount equal to the total amount so apportioned, multiplied by the ratio which the population of areas other than urbanized areas in such State, as designated by the Bureau of the Census, bears to the total population of areas other than urbanized areas in all the States as shown by the latest available Federal census. Appropriations pursuant to the authority of this section may be made in an appropriation Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation.

(b) Use of funds for transportation projects included in a State program of projects for public transportation services; approval of program

Funds made available under this section may be used for public transportation projects which are included in a State program of projects for public transportation services in areas other than urbanized areas. Such program shall be submitted annually to the Secretary for his approval. The Secretary shall not approve the program unless he finds that it provides for a fair and equitable distribution of funds within the State, including Indian reservations within the State, and provides for the maximum feasible coordination of public transportation services assisted under this section with transportation services assisted by other Federal sources.

(c) Availability of sums apportioned for obligation by States

Sums apportioned under this subsection shall be available for obligation by the Governor for a period of three years following the close of the fiscal year for which the sums are apportioned and any amounts remaining unobligated at the end of such period shall be reapportioned among the States for the succeeding fiscal year. States may utilize sums apportioned under this section for any projects eligible under this chapter which are appropriate for areas other than urbanized areas, including purchase of service agreements with private providers of public transportation service, to provide local transportation service, as defined by the Secretary, in areas other than urbanized areas. Eligible recipients may include State agencies, local public bodies and agencies thereof, nonprofit organizations, and operators of public transportation services.

(d) Use of funds for administration and technical assistance

The Secretary may permit an amount, not to exceed 15 per centum of the amount apportioned, to be used by each State for administering this section and for providing technical assistance to recipients of funds under this section. Such technical assistance may include project planning, program development, management development, coordination of public transportation programs (public and private), and such research as the State may deem appropriate to promote effective means of delivering public transportation service in areas other than urbanized areas.

(e) Federal share of construction projects

The Federal share under this chapter for any construction project under this section shall not exceed 80 per centum of the net cost of such construction project, as determined by the Secretary. The Federal share under this chapter for any project for the payment of subsidies for operating expenses, as defined by the Secretary, shall not exceed 50 per centum of the net cost of such operating expense project. At least 50 per centum of the remainder shall be provided in cash, from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement, or depreciation funds or reserves available in cash or new capital.

(f) Terms and conditions of grants; application of other laws

Grants under this section shall be subject to such terms and conditions (which are appropriate to the special needs of public transportation in areas other than urbanized areas) as the Secretary may prescribe. The provisions of sections 1609(c) and 1602(e)(4) of this title shall apply in carrying out projects under this section. For the purposes of this section, the Secretary of Labor may waive any provisions of section 1609(c) of this title. Nothing under this subsection shall affect or discharge any responsibility of the Secretary under any other provision of Federal law.

(g) Omitted

(Pub. L. 88-365, § 18, as added Pub. L. 95-599, title III, § 313(a), Nov. 6, 1978, 92 Stat. 2748.)

CODIFICATION

Subsec. (g) of this section, which required the Secretary, in cooperation with State regulatory commissions, to evaluate the escalation of insurance rates for operators of public transportation in rural areas and for providers of special transportation services for elderly and handicapped persons and, not later than Jan. 1, 1980, report to Congress the results, was omitted from the Code as executed.

PRIOR PROVISIONS

A prior section 1614, Pub. L. 88-365, § 18, as added Pub. L. 95-187, § 2, Nov. 16, 1977, 91 Stat. 1385, which related to reimbursement to States and local bodies and agencies for the cost of financially supporting or operating rail passenger service, was repealed by Pub. L. 95-599, title III, § 312(c), Nov. 6, 1978, 92 Stat. 2748.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1603 of this title.

§ 1615. Nondiscrimination

(a)[1](1) No person in the United States shall on the grounds of race, color, creed, national origin, sex, or age be excluded from participation in, or denied the benefits of, or be subject to discrimination under any project, program, or activity funded in whole or in part through financial assistance under this chapter. The provisions of this section shall apply to employment and business opportunities and shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.].

(2) The Secretary shall take affirmative action to assure compliance with subsection (a)(1) of this section.

(3)(A) Whenever the Secretary determines that any person receiving financial assistance, directly or indirectly, under this chapter, has failed to comply with subsection (a)(1) of this section, with any Federal civil rights statute, or with any order or regulation issued under such statute, the Secretary shall give notice of such determination and shall require necessary action to be taken to assure compliance with such subsection.

(B) If, within a reasonable period of time after receiving notification pursuant to paragraph (a) of this subsection, such person fails or refuses to comply with subsection (a)(1) of this section, the Secretary shall—

(i) direct that no further Federal financial assistance under this chapter be provided to such person;

(ii) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(iii) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); or

(iv) take such other actions as may be provided by law.

(4) Whenever a matter is referred to the Attorney General pursuant to subsection

[1] So in original. Section was enacted without a subsec. (b).

(a)(3)(B)(ii) of this section, or whenever the Attorney General has reason to believe that any person is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may commence a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(5) For purposes of this section, the term "person" includes one or more governmental agencies, political subdivisions, authorities, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.

(Pub. L. 88-365, § 19, as added Pub. L. 95-599, title III, § 314, Nov. 6, 1978, 92 Stat. 2750.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a)(1) and (3)(B)(iii), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under 2000a of Title 42 and Tables.

§ 1616. Human resources programs public transportation activities

The Secretary is authorized to undertake, or provide financial assistance by grant or contract for, national and local programs that address human resource needs as they apply to public transportation activities. Such programs may include but are not limited to employment training programs; outreach programs to increase minority and female employment in public transportation activities; research on public transportation manpower and training needs; and training and assistance for minority business opportunities. Such assistance may include assistance in seeking venture capital, obtaining surety bonding, obtaining management and technical services, and contracting with public agencies organized for such purposes.

(Pub. L. 88-365, § 20, as added Pub. L. 95-599, title III, § 315, Nov. 6, 1978, 92 Stat. 2751.)

§ 1617. Terminal development program

(a) Grants to States and local bodies and agencies

The Secretary is authorized, in accordance with this chapter, and on such other terms and conditions as he may prescribe, to make grants to States and local bodies and agencies thereof to acquire, construct, or alter facilities (directly operated, operated through a lease, or otherwise) primarily for use in providing intercity bus service and in coordinating such service with other modes of transportation. Eligible facilities include, but are not limited to, real property, bus terminals, intermodal terminals, and bus passenger loading areas (including shelters). No grants shall be provided under this section unless the Secretary determines the applicant has or will have (1) the legal, financial, and technical capacity to carry out the proposed project, and (2) satisfactory continuing control. through operation, lease, or otherwise, over the use of the facilities.

(b) Use of facilities by privately owned bus companies

No financial assistance shall be provided under this section to any State or local public body or agency thereof for the acquisition, construction, or alteration of eligible facilities unless the Secretary finds that fair and equitable arrangements have been made for the use of such facilities by privately owned bus companies. Assistance under this section shall encourage, to the maximum extent feasible, the participation of private enterprise and the use of the facilities assisted under this section by other modes of transportation.

(c) Amount of grant

A grant for a project under this section shall be for 80 per centum of the net project cost determined in accordance with section 1603(a) of this title. The remainder of the net project cost shall be provided, in cash, from sources other than Federal funds.

(d) Authorization of appropriations

There is authorized to be appropriated to carry out subsection (a) of this section $40,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(e) Application of other laws

The provisions of sections 1609(c) and 1602(e)(4) of this title shall apply in carrying out projects under this section.

(Pub. L. 88-365, § 21, as added Pub. L. 95-599, title III, § 322, Nov. 6, 1978, 92 Stat. 2754.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1603 of this title.

§ 1618. Intercity bus service for rural areas

(a) Grants for initiation, improvement or continuation of bus service

The Secretary is authorized to make grants for the initiation, improvement, or continuation of intercity bus service for residents of rural areas and residents of urban places designated by the Bureau of the Census as having a population of five thousand or more which are not within an urbanized area as defined in section 1608 of this title. As used in this subsection and subsection (b) of this section, the term "intercity bus service" means transportation provided to the public as a private bus operator authorized to transport passengers in interstate commerce by the Interstate Commerce Commission or in intrastate commerce by a State regulatory commission or comparable State agency (1) between one urban place as designated under this subsection and another such urban place, (2) between an urban place designated in accordance with this subsection and an urbanized area, or (3) between one urbanized area and another urbanized area, through rural areas or urban places, or both. Such term does not include local service.

(b) Eligibility for grants; purpose and amount of grant

Grants for the initiation, improvement, or continuation of intercity bus service under sub-

section (a) of this section shall be made only to States and local public bodies and agencies thereof, only for payment of operating expenses incurred in furnishing such intercity bus service, and shall not exceed 50 per centum of the net cost of such an operating expense project. The remainder of such cost shall be provided in cash from sources other than Federal funds and other than revenues from the operation of such intercity bus service. Such grants shall be subject to such other terms, conditions, and requirements as the Secretary may deem necessary to promote the initiation, improvement, or continuation of privately owned and operated intercity bus service. To the maximum extent feasible assistance shall be distributed by the Secretary only for privately owned intercity bus companies to subsidize deficit operations considering the profitability of the route as a whole. The determination of profitability shall include all income generated by the route and only direct costs of the operation of the route. In making any such grant, preference shall be given to a private bus operator who lawfully has provided intercity bus service to a rural area or urban place during the one-year period preceding the date of application for such a grant over routes or within the general area for which financial assistance is to be provided, over any other operator to provide such service in such area or place.

(c) Authorization of appropriations

There is authorized to be appropriated to carry out subsections (a) and (b) of this section not to exceed $30,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(d) Evaluation of needs of intercity bus industry

The Secretary shall, in cooperation with States, local public bodies, and intercity bus carriers, make an evaluation of the needs of the intercity bus industry for public subsidy of expenses incurred in the provision of intercity bus service as it serves local transportation needs in areas other than urbanized areas. The Secretary shall, not later than September 30, 1979, report to Congress the results of this evaluation together with his recommendations for necessary legislation.

(e) Application of other laws

The provisions of sections 1609(c) and 1602(e)(4) of this title shall apply in carrying out projects under this section.

(Pub. L. 88-365, § 22, as added Pub. L. 95-599, title III, § 323, Nov. 6, 1978, 92 Stat. 2754.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1603 of this title.

CHAPTER 22—HIGH-SPEED GROUND TRANSPORTATION

§ 1636. Protective arrangements for common carrier employees; labor standards

CODIFICATION

Section 5(2)(f) of this title, referred to in subsec. (a), was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of this title, and is now covered by section 11347 of this title.

CHAPTER 23—DEPARTMENT OF TRANSPORTATION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1431 of this title; title 7 section 136q; title 42 sections 4916, 4917, 7572.

§ 1651. Congressional declaration of purpose

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-607, title I, § 101, Nov. 8, 1978, 92 Stat. 3059, provided that: "This title [which amended section 1654 of this title, repealed section 1653a of this title, and enacted provisions set out as notes under section 1654 of this title] may be cited as the 'Local Rail Service Assistance Act of 1978'."

§ 1652. Establishment of Department

OFFICE OF INSPECTOR GENERAL

All the functions, powers, and duties of the Office of Investigations and Security, Office of Audit, Offices of Investigation and Security, Federal Aviation Administration, External Audit Divisions, Federal Aviation Administration, Investigations Division and the External Audit Division of the Office of Program Review and Investigation, Federal Highway Administration, and Office of Program Audits, Urban Mass Transportation Administration in the Department of Transportation were transferred to the Office of Inspector General in the Department of Transportation by section 9(a)(1)(F) of Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101, set out in the Appendix to Title 5, Government Organization and Employees, section 2 of which established such Office of Inspector General.

§ 1653. General provisions

[See main edition for text of (a) to (h)]

(i) Conversion of railroad terminals into intermodal transportation terminals; assistance by Secretary; criteria for financial assistance; consultations; applications; preference; recordkeeping requirements; audit and examination of books, etc.; authorization of appropriations; definitions; eligibility under other Federal programs or plans

[See main edition for text of (1)]

(2) Financial assistance for the purpose set forth in paragraph (1)(A) of this subsection shall be granted in accordance with the following criteria: (A) the railroad terminal can be converted to accommodate such other modes of transportation as the Secretary deems appropriate, including motorbus transportation, mass transit (rail or rubber tire), and airline ticket offices and passenger terminal providing direct transportation to area airports; (B) the railroad passenger terminal is listed on the National Register of Historic Places maintained by the Secretary of the Interior; (C) the architectural integrity of the railroad passenger terminal will be preserved and such judgment is concurred in by consultants recommended by the Chairman of the National Endowment of the Arts and the Advisory Council on Historic Preservation and retained for this purpose by the Secretary; (D) to the extent practicable, the use of station facilities for transportation purposes may be

combined with use for other civic and cultural activities, especially when such use is recommended by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts, or the consultants retained by the Secretary upon their recommendation; and (E) the railroad passenger terminal and the conversion project meet such other criteria as the Secretary shall develop and promulgate in consultation with the Chairman of the National Endowment of the Arts and the Advisory Council on Historic Preservation. Any grant made by the Secretary under this paragraph shall not exceed 80 per centum of the total cost of conversion of a railroad passenger terminal into an intermodal transportation terminal.

(3) Financial assistance for the purpose set forth in paragraph (1)(B) of this subsection may be granted in accordance with regulations, to any responsible person (including a governmental entity) who is empowered by applicable law, qualified, prepared, and committed, on an interim basis pending the formulation of plans for reuse, to maintain (and prevent the demolition, dismantling, or further deterioration of) a railroad passenger terminal: *Provided*, That (A) such terminal has, in the opinion of the Secretary, a reasonable likelihood of being converted to or conditioned for reuse as an intermodal transportation terminal, a civic or cultural activities center, or both; and (B) planning activity aimed at conversion or reuse has commenced and is proceeding in a competent manner. Funds appropriated for the purpose of this paragraph and paragraph (1)(B) of this subsection shall be expended in the manner most likely to maximize the preservation of railroad passenger terminals capable reasonably of conversion to intermodal transportation terminals or which are listed in the National Register of Historic Places maintained by the Secretary of the Interior or which are recommended (on the basis of architectural integrity and quality) by the Chairman of the National Endowment for the Arts or the Advisory Council on Historic Preservation. The amount of the Federal share of any grant under this paragraph shall not exceed 80 per centum of the total cost of such interim maintenance for a period not to exceed five years.

[*See main edition for text of* (4)]

(5) Financial assistance for the purpose set forth in paragraph (1)(D) of this subsection may be granted, in accordance with regulations, to a qualified person (including a governmental entity) who is prepared to develop practicable plans meeting the zoning, land use, and other requirements of the applicable State and local jurisdictions in which the rail passenger terminal is located as well as requirements under this subsection; who shall incorporate into the designs and plans proposed for the conversion of such terminal into an intermodal transportation terminal, a civic or cultural center, or both, features which reasonably appear likely to attract private investors willing to undertake the implementation of such planned conversion and its subsequent maintenance and operation; and who shall complete the designs and plans for such conversion within such time period as the Secretary establishes. In making grants under this paragraph, the Secretary shall give preferential consideration to applicants whose completed designs and plans will be implemented and effectuated within three years after the date of completion. Funds appropriated for the purpose of this paragraph and paragraph (1)(D) of this subsection shall be expended in the manner most likely to maximize the conversion and continued public use of railroad passenger terminals which are listed in the National Register of Historic Places maintained by the Secretary of the Interior or which are recommended (on the basis of architectural integrity and quality) by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts. The amount of the Federal share of any grant under this paragraph shall not exceed 80 per centum of the total cost of the project or undertaking for which the financial assistance is provided.

[*See main edition for text of* (6) *to* (11)]

(As amended Pub. L. 95–421, § 14, Oct. 5, 1978, 92 Stat. 929; Pub. L. 96–73, title I, § 128, Sept. 29, 1979, 93 Stat. 553.)

CODIFICATION

The Interstate Commerce Act, referred to in text, is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of this title. The Act was repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of this title. Provisions of the Act relating to the national transportation policy are now covered by section 10101 of this title.

AMENDMENTS

1979—Subsec. (i)(5). Pub. L. 96–73 substituted "within such time period as the Secretary establishes" for "within two years following the approval of the application for Federal financial assistance under this subsection".

1978—Subsec. (i)(2), (3), (5). Pub. L. 95–421 substituted "80 per centum" for "60 per centum".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–73 effective Oct. 1, 1979, see section 501(a) of Pub. L. 96–73, set out as an Effective Date of 1979 Amendment note under section 501 of Title 45, Railroads.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–421 effective Oct. 5, 1978, see section 20 of Pub. L. 95–421, set out as an Effective Date of 1978 Amendment note under section 541 of Title 45, Railroads.

INTERDEPARTMENTAL COORDINATION STUDY

Pub. L. 95–599, title I, § 160, Nov. 6, 1978, 92 Stat. 2719, which provided that the Secretary of Transportation make a study and investigation with the cooperation of certain departments of those factors affecting the integration of and the parallel among all rules, regulations, administrative reviews, and approvals pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), the Energy Policy Conservation Act (see Short Title note set out under section 6201 of Title 42, The Public Health and Welfare), the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601 et seq.), and Title 23, Highways, and related highway laws, those factors affecting the availability and coordination of funding

sources to achieve improved air quality, energy conservation, and transportation efficiency, the degree to which urban growth, development, and Federal funding to urban areas is predicated upon compliance with the Clean Air Act requirements and plans to attain air quality standards, and the feasibility of permitting tolls and other user charges on roads and highway on the Federal aid system as part of a State implementation plan under the Clean Air Act, and to report the results no later than 1 year following Nov. 6, 1978, was omitted from the Code as executed.

RURAL TRANSPORTATION ADVISORY TASK FORCE

Pub. L. 95-580, Nov. 2, 1978, 92 Stat. 2475, provided: "That the Congress hereby finds and declares that—

"(1) an adequate transportation system, made up of various modes of transportation, is essential to the overall success of the Nation's agriculture programs, to a sound program of rural development, and to the economic stability of the United States;

"(2) the economical and efficient movement of agricultural commodities (including forest products) and agricultural inputs has been impeded by a shortage of railroad freight cars and motor trucks and by the deteriorated condition of many rail roadbeds throughout the United States;

"(3) the economical and efficient movement of agricultural commodities (including forest products) and agricultural inputs is further threatened by the proposed abandonment by the railroad companies of thousands of miles of important railroad lines in the United States;

"(4) the maintaining of an efficient and economical transportation system for agriculture and rural development in the United States has not received the priority attention which such system should have received; and

"(5) the Secretary of Agriculture and the Secretary of Transportation have a responsibility to assume a more active role in representing the interests of agriculture and rural development in the United States in order to insure the availability of an adequate, efficient, and economical transportation system sufficient to meet the needs of agriculture and rural development in the United States.

"Sec. 2. (a) There is hereby created in accordance with the provisions of this section a Rural Transportation Advisory Task Force (hereinafter referred to as the 'Task Force').

"(b) The Secretary of Agriculture and the Secretary of Transportation (hereinafter referred to as the Secretaries) shall serve as Cochairmen of the Task Force, which shall consist of fourteen members in addition to the Cochairmen, appointed by the Secretaries on the following basis:

"(1) one to be selected from a list of qualified individuals recommended by the Secretary of Agriculture;

"(2) one to be selected from a list of qualified individuals recommended by the Secretary of Transportation;

"(3) one to be selected from a list of qualified individuals recommended by the Chairman of the Interstate Commerce Commission;

"(4) one to be selected from a list of qualified individuals recommended by the chairman of the Committee on Agriculture, Nutrition, and Forestry, United States Senate;

"(5) one to be selected from a list of qualified individuals recommended by the chairman of the Committee on Agriculture, United States House of Representatives;

"(6) three to be selected from lists of qualified individuals recommended by carriers and associations of carriers, not to include more than one representative from each of the three transportation modes, rail, motor, and water;

"(7) four to be selected from lists of qualified individuals recommended by the agricultural community, including agricultural shippers and associations of shippers; and

"(8) two to be selected from lists of qualified individuals recommended by the academic community.

"(c) Within fifteen days after the enactment of this section [Nov. 2, 1978], the Secretaries shall solicit recommendations from the Chairman of the Interstate Commerce Commission; the chairman of the Committee on Agriculture, Nutrition, and Forestry, United States Senate; and the chairman of the Committee on Agriculture, United States House of Representatives. The Secretaries shall cause notice to be published in the Federal Register soliciting recommendations from which to make the selections required under subparts (6), (7), and (8) of subsection (b) of this section.

"(d) Vacancies on the Task Force shall be filled in the manner prescribed for original selections.

"(e) Members of the Task Force who are full-time officers or employees of the United States shall receive no additional pay on account of this service on the Task Force. While away from their homes or regular places of business in the performance of services for the Task Force, members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"(f) The Task Force shall be dissolved forty-five days after the publication of the final report required under section 4 of this Act.

"(g) The Secretaries shall furnish such supplies and clerical, administrative, and other support as they deem necessary to enable the Task Force to carry out its responsibilities.

"Sec. 3. (a) The Task Force may compile and publish an initial report which, if published, shall include recommendations for determining the essential transportation needs of agriculture on a continuing basis, for establishing a national agricultural transportation policy, and for methods of identifying impediments to a railroad transportation system adequate to meet the essential needs of the agriculture industry of the United States. Such report, if published, shall also include, but shall not be limited to, maps which identify the locations in the several States which the Task Force, on the basis of the importance of such locations within agricultural producing, marketing, or consuming areas, determines should receive railroad service: *Provided*, That this directive is not to be construed as requiring comprehensive line-by-line analyses of all branch lines.

"(b) The report authorized in section 3(a) shall, if published, be published not later than one hundred and eighty days after the date of enactment of this Act [Nov. 2, 1978]. The Task Force shall submit copies of such report, if published, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives and shall provide for the widespread public dissemination of such report throughout the United States as soon as practicable after its publication.

"(c) Within ninety days after the publication of the initial report described in section 3(a), or if such report is not published, within two hundred and seventy days after enactment of this Act [Nov. 2, 1978], the Task Force shall announce dates for and hold public hearings at various locations throughout the United States, take such testimony and receive such evidence as it considers advisable for the purpose of obtaining the views of interested persons on such initial report or, if such report is not published, on recommendations for the final report required under this Act.

"(d) Within one hundred and twenty days after the publication of the initial report described in section 3(a) or, if such report is not published, within three hundred days after enactment of this Act [Nov. 2, 1978], the Task Force shall prepare and publish a summary of the testimony presented at such hearings, and shall provide for the widespread public dissemination of such summary as soon as possible following the publication thereof.

"Sec. 4. (a) The Task Force shall prepare and publish, within four hundred and twenty days after the date of enactment of this Act [Nov. 2, 1978], a final report including recommendations for determining the essential needs of agriculture on a continuing basis, for establishing a national agricultural transportation policy, for methods of identifying impediments to a railroad transportation adequate to meet the essential needs of the agriculture industry, and containing specific recommendations for a railroad transportation system adequate to meet the essential needs of the agriculture industry of the United States. In preparing such final report, the Task Force shall take into consideration the testimony received at the public hearing required under this Act.

"(b) Copies of such final report shall be submitted to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Agriculture of the House of Representatives, and the Chairman of the Interstate Commerce Commission. The Task Force shall provide for the widespread public dissemination of such final report.

"Sec. 5. The provisions of this Act shall become effective October 1, 1978."

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Secretary of Transportation, see Parts 1, 13, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2251 of Title 50, Appendix, War and National Defense.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 1246; title 20 section 960; title 23 section 117.

§ 1653a. Repealed. Pub. L. 95–607, title I, § 109(b)(1), Nov. 8, 1978, 92 Stat. 3064

Section, Pub. L. 94–210, title VIII, § 810, Feb. 5, 1976, 90 Stat. 146, provided for establishment of a rail bank to consist of rail trackage and other properties for purposes of preserving existing service in certain areas of the United States in which fossil fuel natural resources or agricultural production was located.

EFFECTIVE DATE OF REPEAL

Section repealed effective Oct. 1, 1978, see section 110 of Pub. L. 95–607, set out as an Effective Date of 1978 Amendment note under section 1654 of this title.

§ 1654. Rail service responsibilities of Secretary

[See main edition for text of (a) and (b)]

(c) Conduct of studies to determine potential cost savings and improvements resulting from unification or coordination; access to information; subpoenas

The Secretary may conduct such studies as are deemed advisable to determine the potential cost savings and possible improvements in the quality of rail services which are likely to result from unification or coordination with respect to two or more railroads, through the elimination of duplicative or overlapping operations and facilities; the reduction of switching operations; utilization of the shortest, or the most efficient, and economical routes; the exchange of trackage rights; the combining of trackage and of terminal or other facilities; the upgrading of tracks and other facilities used by two or more railroads; reduction of administrative and other expenses; and any other measures likely to reduce costs and improve rail service. For purposes of studies conducted under this section and the study described in section 901 of the Railroad Revitalization and Regulatory Reform Act of 1976, each railroad shall provide such information as may be requested by the Secretary in connection with the performance of functions under this section and such section 901. In furtherance of any of the functions or responsibilities of the Secretary under this section or such section 901, any officer or employee duly designated by the Secretary may obtain, from any railroad, information regarding the nature, kind, quality, origin, destination, consignor, consignee, and routing of property, without the consent of the consignor or consignee involved, notwithstanding the provisions of section 11910(a)(1) of this title and may, to the extent necessary or appropriate, exercise, with respect to any railroad, any of the powers described in section 713(c) of title 45, as provided therein, except that subpoenas shall be issued under the signature of the Secretary.

[See main edition for text of (d)]

(e) Study of proposed merger, etc., subject to jurisdiction of Interstate Commerce Commission; applicable statutory provision for consideration of proposal; appearance before Commission

Whenever any railroad submits a proposal for a merger or other action the approval of which is subject to the jurisdiction of the Interstate Commerce Commission under section 11343(a) of this title, the Secretary may, if he has not already done so, conduct a study of such proposal in order to determine whether or not, in his judgment, such proposal is in accordance with the standards set forth in section 11344(b) of this title. Whenever such proposal is the subject of an application and a proceeding before such Commission, the Secretary is authorized to appear before the Commission in any proceeding held with respect to such application.

(f) Financial assistance to States for rail freight assistance programs; purposes of programs

The Secretary shall, in accordance with this section, provide financial assistance to States for rail freight assistance programs that are designed to cover—

(1) the cost of rail service continuation payments;

(2) the cost of acquiring, by purchase, lease, or in such other manner as the State considers appropriate, a line of railroad or other rail properties, or any interest therein, to maintain existing or provide for future rail service;

(3) the cost of rehabilitating and improving rail properties on a line of railroad to the extent necessary to permit adequate and efficient rail freight service on such line;

(4) the cost of reducing the costs of lost rail service in a manner less expensive than continuing rail service; and

(5) the cost of constructing rail or rail related facilities (including new connections between two or more existing lines of railroad, intermodal freight terminals, sidings, and relocation of existing lines) for the purpose of improving the quality and efficiency of rail freight service.

(g) Federal share of costs of rail service assistance programs; State share in cash or through certain benefits; application of excess State share to subsequent fiscal years

The Federal share of the costs of any rail service assistance program shall be 80 per centum, except that the Federal share of costs for financial assistance under paragraph (1) of subsection (f) of this section for any project described in subsection (k)(1) of this section shall be 80 per centum for the first and second years such project is conducted and 70 per centum for the third year such project is conducted. The State share of the costs may be provided in cash or through any of the following benefits, to the extent that such benefits would not otherwise be provided: (1) forgiveness of taxes imposed on a common carrier by railroad or on its properties; (2) the provision by the State or by any person or entity on behalf of such State, for use in its rail service assistance program, of real property or tangible personal property of the kind necessary for the safe and efficient operation of rail freight service; (3) trackage rights secured by the State for a common carrier by railroad; or (4) the cash equivalent of State salaries for State public employees working in the State rail service assistance program, but not including overhead and general administrative costs. If a State, or any person or entity on behalf of a State, provides more than such State's percentage share of the cost of its rail service assistance program during any fiscal year, the amount in excess of such share shall be applied toward such State's share of the costs of its program for subsequent fiscal years.

(h) State rail service assistance entitlement; computation of amount; reallocation; State agreements for combination projects

(1) For the period beginning October 1, 1978, and ending September 30, 1979, each State which is eligible to receive rail service assistance under this section is entitled to an amount equal to the total amount authorized and appropriated for such purposes, multiplied by a fraction the numerator of which is the rail mileage in such State which was eligible for rail service assistance under this section prior to October 1, 1978, and the denominator of which is the rail mileage in all of the States which was eligible for rail service assistance under this section prior to such date. Notwithstanding the provisions of the preceding sentence, the entitlement of each State shall not be less than 1 percent of the funds appropriated.

(2) Effective October 1, 1979, each State which is eligible to receive rail service assistance under this section is entitled annually to a sum from available funds as determined pursuant to this subsection. Available funds are funds appropriated for rail service assistance for that fiscal year and any funds to be reallocated for that fiscal year in accordance with this subsection. Subject to the limitations set forth in paragraph (3) of this subsection, the Secretary shall calculate each State's entitlement as follows:

(A) two-thirds of the available funds, multiplied by a fraction (i) the numerator of which is the sum of the rail mileage in the State which, in accordance with section 10904(d)(1) and (2) of this title, is either "potentially subject to abandonment" or with respect to which a carrier plans to submit, or has submitted, an application for a certificate of abandonment or discontinuance, and (ii) the denominator of which is the total of such rail mileage in all the States; and

(B) one-third of available funds, multiplied by a fraction (i) the numerator of which is the rail mileage in the State with respect to which the Interstate Commerce Commission, within 3 years prior to the first day of the fiscal year for which funds are allocated or reallocated under this section, has found that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, such rail mileage (including, until September 30, 1981, the rail mileage which was eligible for assistance under section 762 of title 45, and all rail mileage in the State which has, prior to October 1, 1978, been included for formula allocation purposes under this section); and (ii) the denominator of which is the total rail mileage in all the States eligible for rail service assistance under this section which the Interstate Commerce Commission has made such a finding (including, until September 30, 1981, the rail mileage in all the States which was eligible for financial assistance under section 762 of title 45, and the rail mileage in all the States which has, prior to October 1, 1978, been included for formula allocation purposes under this section).

Notwithstanding the preceding provisions of this paragraph, the entitlement of each State in a fiscal year shall not be less than 1 percent of the funds appropriated for such fiscal year.

(3)(A) For purposes of paragraphs (1) and (2) of this subsection, rail mileage shall be measured by the Secretary as of the first day of each fiscal year. In making calculations under this subsection, no rail mileage shall be included more than once in either the numerator or the denominator of a fraction.

(B) Entitlement funds are available to a State during the fiscal year for which the funds are appropriated. In accordance with the formula stated in this subsection, the Secretary shall reallocate, to each State which is eligible to receive rail service assistance under this section, a share of any entitlement funds which have not been the subject of an executed grant agreement between the Secretary and the State before the end of the fiscal year for which the funds were appropriated. Reallocated funds are available to the State for the same purpose and for the same time period as an original allocation and are subject to reallocation if not made the subject of an executed grant agreement between the Secretary and the State before the end of the fiscal year for which the funds were reallocated. Funds appropriated in fiscal year 1978 and prior years which are not the subject of an executed grant agreement as of October 1, 1978, shall remain available to the States during fiscal year 1979.

(4) Two or more States which are eligible to receive rail service assistance under this section may, where not in violation of State law, enter

into an agreement to combine any portion of their respective Federal entitlements under this subsection for purposes of conducting any project which is eligible for assistance under subsection (k) of this section and which will benefit each State which is a party to such agreement.

(i) State rail plan expenditures; limitation

During each fiscal year, a State may expend not to exceed $100,000, or 5 percent, whichever is greater, of its annual entitlement under subsection (h) of this section to meet the cost of establishing, implementing, revising, and updating the State rail plan required by subsection (j) of this section.

(j) Preconditions for eligibility of States for rail service assistance

A State is eligible to receive rail service assistance from the Secretary if—

[*See main edition for text of (1)*]

(2)(A) such State plan is administered or coordinated by a designated State agency and provides for the equitable distribution of resources, and (B) such State plan includes, as soon as practicable after November 8, 1978, a methodology for determining the ratio of benefits to costs of projects which are proposed to be initiated after November 8, 1978, and which are eligible for assistance under paragraphs (2) through (4) of subsection (k) of this section;

[*See main edition for text of (3) to (5)*]

(k) Eligibility criteria for different classes of projects for rail freight financial assistance; annual list of rail line carriage of certain gross tonnage or less per mile

(1) A project is eligible for financial assistance under paragraph (1) of subsection (f) of this section only if—

(A)(i) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuances of rail service on, the line of railroad which is related to the project; or (ii) the line of railroad or related project was eligible for assistance under section 762 of title 45; and

(B) the line of railroad or related project has not previously received financial assistance under paragraph (1) of subsection (f) of this section for more than 36 months, except that a line of railroad or related project which was eligible for financial assistance under section 762 of title 45 or under this section prior to October 1, 1978, shall be eligible only until September 30, 1981.

(2) A project is eligible for financial assistance under paragraph (2) of subsection (f) of this section only if—

(A) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad related to the project;

(B) the line of railroad related to the project is listed for possible inclusion in a rail bank in part III, section C of the Final System Plan issued by the United Railway Association under section 717 of title 45; or

(C) the line of railroad related to the project was eligible to be acquired under section 762(c)(3) of title 45, except that a line of railroad or related project which was eligible for financial assistance under such section 762 or under this section prior to October 1, 1978, shall be eligible only until September 30, 1981.

(3) A project is eligible for financial assistance under paragraphs (3) and (5) of subsection (f) of this section only if—

(A) the line of railroad related to the project is certified by the railroad as having carried 3 million gross ton miles of freight or less per mile during the prior year;

(B) the line of railroad related to the project is certified by the railroad as having carried less than 5 million gross ton miles of freight per mile during the prior year and the Secretary has determined that the project is essential to carry out proposals made under authority of subsections (a) through (e) of this section;

(C) an application for a certificate of abandonment or discontinuance with respect to the line of railroad related to the project has been filed with the Interstate Commerce Commission prior to January 1, 1979 (whether or not such application has been granted);

(D) the line of railroad related to the project is listed for possible inclusion in a rail bank in part III, section C of the Final System Plan issued by the United States Railway Association under section 717 of title 45; or

(E) the line of railroad related to the project was eligible to be acquired under section 762(c)(3) of title 45.

Any project involving a line of railroad described in subparagraph (C), (D), or (E) of this paragraph shall only be eligible for financial assistance until September 30, 1981.

(4) A project is eligible for financial assistance under paragraph (4) of subsection (f) of this section only if—

(A) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to the project; or

(B) the line of railroad or related project was eligible for financial assistance under section 762 of title 45, except that a line of railroad or related project which was eligible for assistance under such section 762 or under this section prior to October 1, 1978, shall be eligible only until September 30, 1981.

(5) On or before August 1 of each year, each common carrier by railroad subject to subchapter I of chapter 105 of this title shall prepare, update, and submit to the Secretary a listing of those rail lines of such carrier which, based on level of usage, carried 3 million gross ton miles of freight or less per mile during the prior year.

[*See main edition for text of (l)*]

(m) Recordkeeping, auditing, etc., requirements of recipients of financial assistance

(1) Each recipient of financial assistance under subsections (e) through (p) of this section, whether in the form of grants, subgrants, contracts, subcontracts, or other arrangements, shall keep such records as the Secretary shall prescribe including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project which was supplied by other sources, and such other records as will facilitate an effective audit. Such records shall be maintained for 3 years after the completion of such a project or undertaking.

[*See main edition for text of (2) and (3)*]

(n) Definition

As used in this section, the term "State" means—

(1) during the period from February 5, 1976, through the second anniversary of the date on which rail properties are conveyed pursuant to section 303(b)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(1)), any State in which a carrier by railroad subject to subchapter I of chapter 105 of this title maintains any line of railroad, except that the term shall not include the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Michigan, and Illinois, and the District of Columbia; and

(2) during the period following the second anniversary of the date on which rail properties are conveyed pursuant to such section 303(b)(1) [45 U.S.C. 743(b)(1)], any State in which a carrier by railroad subject to subchapter I of chapter 105 of this title maintains any line of railroad.

(o) State use of financial assistance; terms and conditions

A State shall use financial assistance provided under paragraph (3) of subsection (f) of this section in accordance with the following provisions:

(1) The financial assistance shall be used to rehabilitate or improve rail properties in order to improve rail freight service within the State.

(2) The State shall, in its discretion, grant or loan funds to the owner of rail properties or operator of rail service related to the project.

(3) The State shall determine all financial terms and conditions of a grant or loan, except that the timing of all advances with respect to grants in and under this subsection shall be in accordance with Department of Treasury regulations.

(4) The State shall place the Federal share of repaid funds in an interest-bearing account or, with the approval of the Secretary, permit any borrower to place such funds, for the benefit and use of the State, in a bank which has been designated by the Secretary of the Treasury in accordance with section 265 of title 12. The State shall use such funds and all accumulated interest to make further loans or grants under paragraph (3) of subsection (f) of this section in the same manner and under the same conditions as if they were originally granted to the State by the Secretary. The State may, at any time, pay to the Secretary the Federal share of any unused funds and accumulated interest. After the termination of a State's participation in the rail service assistance program established by this section, such State shall pay the Federal share of any unused funds and accumulated interest to the Secretary.

(p) Authorization of appropriations; availability of unexpended appropriations

There are authorized to be appropriated to the Secretary for the purposes of subsections (f) through (p) of this section not to exceed $360,000,000, without fiscal year limitation. Of the foregoing sums, not to exceed $5,000,000 shall be made available for planning grants during each of the 3 fiscal years ending June 30, 1976; September 30, 1977; and September 30, 1978. In addition, any appropriated sums remaining after the repeal of section 762 of title 45 and section 1653a of this title are authorized to remain available to the Secretary for purposes of subsections (f) through (p) of this section. Such sums as are appropriated are authorized to remain available until expended.

(As amended Pub. L. 95-607, title I, §§ 102-106(a), 107-109(a), Nov. 8, 1978, 92 Stat. 3059-3064; Pub. L. 96-86, title I, § 115(b), Oct. 12, 1979, 93 Stat. 662.)

REFERENCES IN TEXT

Section 762 of title 45, referred to in subsecs. (h)(2)(B), (k), and (o) was repealed effective Apr. 1, 1978, by Pub. L. 94-210, title VIII, § 806, Feb. 5, 1976, 90 Stat. 143.

Section 1653a of this title, referred to in subsec. (p), was repealed by Pub. L. 95-607, title I, § 109(b)(1), Nov. 8, 1978, 92 Stat. 3064.

CODIFICATION

References to appropriate provisions of subchapter IV (§ 10101 et seq.) of this title were substituted for references to the Interstate Commerce Act on authority of section 3(b) of Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV of this title, as follows:

In subsec. (c), "section 11910(a)(1) of this title" was substituted for "section 15(13) of the Interstate Commerce Act (49 U.S.C. 15(13))".

In subsec. (e), "section 11343(a) of this title" and "section 11344(b) of this title" were substituted for "section 5(2) of the Interstate Commerce Act (49 U.S.C. 5(2))" and "section 5(2)(c) of the Interstate Commerce Act (49 U.S.C. 5(2)(c))", respectively.

In subsec. (h)(2)(A), "section 10904(d)(1) and (2) of this title" was substituted for "section 1a(5)(a) of the Interstate Commerce Act (49 U.S.C. 1a(5)(a))".

In subsecs. (k)(5) and (n), "subchapter I of chapter 105 of this title" was substituted for "part I of the Interstate Commerce Act [49 U.S.C. 1 et seq.]".

AMENDMENTS

1979—Subsec. (h)(2)(A). Pub. L. 96-86 substituted "plans to submit, or has submitted" for "plans to submit, but has not yet submitted".

1978—Subsec. (f)(2). Pub. L. 95-607, § 102(1), substituted "acquiring, by purchase, lease, or in such other manner as the State considers appropriate, a line of railroad or other rail properties, or any interest therein," for "purchasing a line of railroad or other rail properties".

Subsec. (f)(3) to (5). Pub. L. 95-607, § 102(2)-(4), deleted "and" at end of par. (3), substituted a semicolon and "and" for the period at end of par. (4), and added par. (5).

Subsec. (g). Pub. L. 95-607, § 103, in revising the text, added subsec. (g), which incorporated existing percentages as the Federal share of financial assistance, inserted percentages of 80 and 70 as the Federal share of assistance under subsec. (f)(1) of this section, expanded payment of the State share of the costs to include benefits listed in items (2) and (4), and provided for application of the excess of a State share to subsequent fiscal years, and deleted former subsec. (g), which had provided as the Federal share of the costs of rail service assistance percentages of 100, 90, 80, and 70 for fiscal years July 1, 1976 through June 30, 1977, July 1, 1977 through June 30, 1978, July 1, 1978 through June 30, 1979, and July 1, 1979 through June 30, 1981, including a percentage level adjustment for last two fiscal years so as not to exceed funds available under subsec. (o) of this section, and had made provision for the State share through in-kind benefits such as forgiveness of taxes, trackage rights, and facilities which would not otherwise be provided, now incorporated in part in items (1) and (3).

Subsec. (h). Pub. L. 95-607, § 104, added subsec. (h) and deleted prior provisions which contained the allocation formula made applicable in par. (1) until Sept. 30, 1979, made each State eligible for a minimum of one percent of appropriated funds, and provided for measuring rail mileage by the Secretary in consultation with the ICC and for reallocation among the States of any portion of the entitlement of any State which was withheld and any sums which were not used or committed by a State according to the prescribed formula described in par. (1), the reallocation provisions now being covered in par. (3)(B).

Subsec. (i). Pub. L. 95-607, § 105, substituted provisions respecting State rail plan expenditures and limitation thereof for prior provisions for State allocation of rail service assistance and for grants to States.

Subsec. (j)(2). Pub. L. 95-607, § 106(a), designated existing provisions as cl. (A) and added cl. (B).

Subsec. (k). Pub. L. 95-607, § 107, substituted provisions respecting eligibility criteria for different classes of projects for rail freight financial assistance and submission of an annual list of rail line carriage of certain gross tonnage or less per mile for prior provisions prescribing the same eligibility criteria for each class of project.

Subsec. (m)(1). Pub. L. 95-607, § 109(a)(1), substituted reference to subsec. "(p)" for "(o)".

Subsec. (o). Pub. L. 95-607, § 108, added subsec. (o). Former subsec. (o) redesignated (p).

Subsec. (p). Pub. L. 95-607, §§ 108, 109(a), redesignated former subsec. (o) as (p), substituted reference to subsec. (p) for (o) in two instances, and inserted reference to section 1653a of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 110 of Pub. L. 95-607 provided that: "The provisions of this title [amending this section, repealing section 1653a of this title, and enacting a provision set out as note under this section] shall take effect on October 1, 1978."

FUNDING PROJECTS ON CASE-BY-CASE BASIS WHERE PUBLIC BENEFITS OUTWEIGH PUBLIC COSTS

Section 106(b) of Pub. L. 95-607 provided: "During the period prior to the inclusion in a State rail plan of the methodology referred to in the amendment made by subsection (a) of this section [to subsec. (j)(2) of this section], the Secretary of Transportation shall continue to fund projects on a case-by-case basis where he has determined, based upon analysis performed and documented by the State, that the public benefits associated with the project outweigh the public costs of such project."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11346 of this title; title 45 section 903.

§ 1655. Transfer of functions

[*See main edition for text of* (a) *to* (g)]

(h) Applicability of administrative procedure and judicial review provisions of title 5

The provisions of subchapter II of chapter 5 and of chapter 7 of title 5 shall be applicable to proceedings by the Department and any of the administrations or boards within the Department established by this chapter except that notwithstanding this or any other provision of this chapter, the transfer of functions, powers, and duties to the Secretary or any other officer in the Department shall not include functions vested by subchapter II of chapter 5 of title 5 in administrative law judges employed by any department, agency, or component thereof whose functions are transferred under the provisions of this chapter.

[*See main edition for text of* (i)]

(As amended Pub. L. 95-251, § 2(a)(12), Mar. 27, 1978, 92 Stat. 183.)

REFERENCES IN TEXT

Sections 831-835 of title 18, referred to in subsec. (e)(4), known as the Transportation of Explosives Act, were repealed by Pub. L. 96-129, title II, § 216(b), Nov. 30, 1979, 93 Stat. 1015.

CODIFICATION

The Interstate Commerce Act, referred to in subsecs. (e)(6) and (f)(1) and (2), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of this title. The Act was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of this title. For distribution of former sections of this title into the revised title, see Table at the beginning of this title.

AMENDMENTS

1978—Subsec. (h). Pub. L. 95-251 substituted "administrative law judges" for "hearing examiners".

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1657. Administrative provisions

(a) Authority of Secretary to employ personnel and prescribe their authority and duties

In addition to the authority contained in any other Act which is transferred to and vested in the Secretary, the National Transportation Safety Board, or any other officer in the Department, the Secretary is authorized, subject to the civil service and classification laws, to

select, appoint, employ, and fix the compensation of such officers and employees, including investigators, attorneys, and administrative law judges, as are necessary to carry out the provisions of this chapter and to prescribe their authority and duties.

[See main edition for text of (b) to (q)]

(As amended Pub. L. 95-251, § 2(a)(12), Mar. 27, 1978, 92 Stat. 183.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-251 substituted "administrative law judges" for "hearing examiners".

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

CHAPTER 24—NATURAL GAS PIPELINE SAFETY

Sec.

1674a. Establishment of standards for LNG facilities [New].
(a) Safety standards respecting location, design, installation, construction, and initial inspection and testing of LNG facilities.
(b) Standards respecting operation and maintenance of LNG facilities.
(c) Effect on existing LNG facilities.
(d) Factors considered in prescribing general safety standards.
(e) Amendment of standards.
(f) Applicability of provisions of section 1672 of this title to standards prescribed under this section.
1674b. Financial responsibility for certain LNG facilities [New].
(a) Study regarding risks associated with production, transportation, and storage of LNG and liquid petroleum gas; report to Congress.
(b) Notice of inadequate financial responsibility; hearing; judicial review.
(c) Methods acceptable for maintenance of financial responsibility.
1679a. Penalties [New].
(a) Civil penalties.
(b) Action by Attorney General to recover subsec. (a) penalty.
(c) Criminal penalties.
(d) Violations based on same act.
1679b. Specific relief [New].

§ 1671. Definitions

As used in this chapter—

[See main edition for text of (1) and (2)]

(3) "Transportation of gas" means the gathering, transmission or distribution of gas by pipeline or its storage in interstate or foreign commerce; except that it shall not include the gathering of gas in those rural locations which lie outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commercial area such as a subdivision, a business or shopping center, a community development, or any similar populated area which the Secretary may define as a nonrural area;

[See main edition for text of (4) to (6)]

(7) "National organization of State commissions" means the national organization of the State commissions referred to in subchapter III of chapter 103 of this title;

(8) "Interstate transmission facilities" means pipeline facilities used in the transportation of gas which are subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act [15 U.S.C. 717 et seq.], except that it shall not include any pipeline facilities within a State which transport gas from an interstate gas pipeline to a direct sales customer within such State purchasing gas for its own consumption;

(9) "Intrastate pipeline transportation" means pipeline facilities and transportation of gas within a State which are not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act [15 U.S.C. 717 et seq.], except that it shall include pipeline facilities within a State which transport gas from an interstate gas pipeline to a direct sales customer within such State purchasing gas for its own consumption;

(10) "Secretary" means the Secretary of Transportation;

(11) "LNG" means natural gas in a liquid or semisolid state;

(12) "LNG facility" means any pipeline facility used for the transportation or storage of LNG, or for LNG conversion, in interstate or foreign commerce, but does not include any structure or equipment (or portion thereof) located in navigable waters (as defined in section 796(8) of title 16);

(13) "LNG conversion" means conversions of natural gas into LNG (liquefaction or solidification) or the conversion of LNG into natural gas (vaporization);

(14) "Existing LNG facility" means any LNG facility for which an application for the approval of the siting, construction, or operation of such facility was filed before March 1, 1978, with—

(A) the Department of Energy or any predecessor organization of the Department, or

(B) the appropriate State or local agency, in the case of any facility not subject to the jurisdiction of the Department of Energy under the Natural Gas Act [15 U.S.C. 717 et seq.],

except that such term does not include any facility the construction of which commences on or after November 30, 1979, and such construction is not pursuant to such an approval;

(15) "New LNG facility" means any LNG facility other than an existing LNG facility;

(16) "LNG accident" means any release, burning, or explosion of LNG resulting from—

(A) a rupture or other failure of a storage tank, pipeline, or other LNG facility;

(B) natural hazards (including earthquakes, hurricanes, and high winds);

(C) sabotage; or

(D) any other cause;

other than any such release, burning, or explosion which, as determined in accordance with

regulations prescribed by the Secretary, does not pose a threat to public health or safety, property, or the environment; and

(17) "Interstate or foreign commerce" means any trade, traffic, transportation, exchange, or other commerce—

(A) between any State and any place outside of such State, or

(B) which affects any trade, transportation, exchange, or other commerce described in subparagraph (A).

(As amended Pub. L. 96-129, title I, §§ 109(a), (b), 151, 152(b)(1), Nov. 30, 1979, 93 Stat. 996, 998, 1001.)

REFERENCES IN TEXT

The National organization of State commissions, referred to in par. (7), is referred to specifically in section 10344(f) of this title.

The Natural Gas Act, referred to in pars. (8), (9), and (14)(B), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§ 717 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 717w of Title 15 and Tables.

AMENDMENTS

1979—Par. (3). Pub. L. 96-129, § 152(b)(1), struck out "or affecting" following "its storage in".

Par. (7). Pub. L. 96-129, § 109(a), substituted "subchapter III of chapter 103 of this title" for "part II of the Interstate Commerce Act".

Pars. (8), (9). Pub. L. 96-129, § 109(b), substituted "Federal Energy Regulatory Commission" for "Federal Power Commission".

Pars. (11) to (17). Pub. L. 96-129, § 151, added pars. (11) to (17).

EFFECTIVE DATE OF 1979 AMENDMENT; SAVINGS PROVISION

Section 112 of Pub. L. 96-129 provided that:

"(a) The provisions of this subtitle [enacting sections 1679a and 1679b of this title, amending sections 1671 to 1674, 1675 to 1677, and 1680 to 1684 of this title, repealing sections 1678 and 1679 of this title, and enacting provisions set out as notes under sections 1672 and 1682 of this title], including amendments made by such provisions, shall take effect on the date of the enactment of this Act [Nov. 30, 1979].

"(b) Suits, actions, or other proceedings pending upon the date of the enactment of this subtitle [Nov. 30, 1979] shall not be affected by the provisions of this subtitle and shall be completed as if this title had not been enacted, unless the Secretary makes a determination that the public safety otherwise requires."

Section 156 of Pub. L. 96-129 provided that: "The provisions of this subtitle [enacting sections 1674a and 1674b of this title and amending sections 1671, 1672, 1676, 1679a, and 1682 of this title], including amendments made by such provisions, shall take effect on the date of the enactment of this Act [Nov. 30, 1979]."

SHORT TITLE

Section 1(a) of Pub. L. 96-129 provided that: "This Act [which enacted chapter 29 (§ 2001 et seq.) and sections 1674a, 1674b, 1679a, and 1679b of this title, amended sections 1671 to 1674, 1675 to 1677, 1679a, 1680 to 1684, and 1811 of this title, repealed sections 1678 and 1679 of this title and sections 831 to 835 of Title 18, Crimes and Criminal Procedure, and enacted provisions set out as notes under sections 1671, 1672, 1682, and 2001 of this title and section 831 of Title 18] may be cited as the 'Pipeline Safety Act of 1979'."

TRANSFER OF FUNCTIONS

The enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the gas pipeline safety regulations issued thereunder as they relate to pre-construction, construction, and initial operation of an approved transportation system for Canadian and Alaskan natural gas were transferred to the Federal Inspector of the Office of the Federal Inspector of the Alaska Natural Gas Transportation System until the first anniversary of the date of the initial operation of the Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(c), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1672. Federal safety standards

(a) Minimum standards; factors to be considered; State standards

(1) The Secretary shall, by regulation, establish minimum Federal safety standards for the transportation of gas and pipeline facilities. Such standards may apply to the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities. Standards affecting the design, installation, construction, initial inspection, and initial testing shall not be applicable to pipeline facilities in existence on the date such standards are adopted. Such Federal safety standards shall be practicable and designed to meet the need for pipeline safety. In prescribing such standards, the Secretary shall consider—

(A) relevant available pipeline safety data;

(B) whether such standards are appropriate for the particular type of pipeline transportation or facility;

(C) the reasonableness of any proposed standards; and

(D) the extent to which such standards will contribute to public safety.

Any State agency may adopt additional or more stringent safety standards for intrastate pipeline transportation if such standards are compatible with the Federal minimum standards. No State agency may adopt or continue in force any such standards applicable to interstate transmission facilities, after the Federal minimum standards become effective.

(2) Not later than 12 months after November 30, 1979, the Secretary shall provide that the Federal minimum safety standards established under this section include a requirement that any operator of pipeline facilities—

(A) participate in any public safety program—

(i) which provides for notice to pipeline facility operators of proposed demolition, excavation, tunneling, or construction near or affecting such facility;

(ii) which requires such operators to identify specific pipeline facilities which may be affected by the proposed demolition, excavation, tunneling, or construction, for the purpose of preventing damage to such facilities; and

(iii) which the Secretary determines is being carried out in a manner adequate to assure protection against the hazards to that operator's pipeline facilities created by such demolition, excavation, tunneling, or construction; or

(B) to the extent that such a program is not available, take such steps as the Secretary shall prescribe to provide services to the public with respect to that operator's pipeline facilities which are comparable to those which would be available to the public under such a program.

(b) Effective date of standards

Any standards prescribed under this section, and amendments thereto, shall become effective thirty days after the date of issuance of such standards unless the Secretary, for good cause recited, determines an earlier or later effective date is required as a result of the period reasonably necessary for compliance and such date is specified in the regulation establishing or amending such standard.

(c) Administrative procedure

The provisions of subchapter II of chapter 5 of title 5 shall apply to all actions establishing, amending, revoking, or directing or waiving compliance with, any standard established under this chapter. The Secretary shall afford interested persons an opportunity to participate fully in the establishment of such safety standards through submission of written data, views, or arguments with opportunity to present oral testimony and argument.

(d) Waiver of compliance with standards

Upon application by any person engaged in the transportation of gas or the operation of pipeline facilities, the Secretary may, by order, after notice and opportunity for hearing and under such terms and conditions and to such extent as he deems appropriate, waive in whole or in part compliance with any standard established under this chapter, if he determines that a waiver of compliance with such standard is not inconsistent with gas pipeline safety. The Secretary shall state his reasons for any such waiver. A State agency, with respect to which there is in effect a certification pursuant to section 1674(a) of this title or an agreement pursuant to section 1674(b) of this title, may waive compliance with a safety standard in the same manner and to the same extent as the Secretary, provided such State agency gives the Secretary written notice at least sixty days prior to the effective date of the waiver. If, before the effective date of a waiver to be granted by a State agency, the Secretary objects in writing to the granting of the waiver, any State agency action granting the waiver will be stayed. After notifying such State agency of his objection, the Secretary shall afford such agency a prompt opportunity to present its request for waiver, with opportunity for hearing, and the Secretary shall determine finally whether the requested waiver may be granted.

(e) Redesignated (d)

(As amended Pub. L. 96-129, title I, §§ 101(a), 104(a)(2), (c), (d), 109(c)–(f), 152(b)(2), Nov. 30, 1979, 93 Stat. 990, 992, 994, 996, 1001.)

AMENDMENTS

1979—Subsec. (a)(1). Pub. L. 96-129, §§ 101(a), 109(c) to (e), redesignated former subsec. (b) as (a)(1) and former pars. (1) to (4) thereof as subpars. (A) to (D) and, as so redesignated, substituted "The Secretary shall, by regulation" for "Not later than twenty-four months after August 12, 1968, and from time to time thereafter, the Secretary shall, by order,", struck out provision requiring that whenever the Secretary finds a particular facility to be hazardous to life or property, he shall be empowered to require the person operating such facility to take such steps necessary to remove such hazards, and inserted "or facility" following "pipeline transportation" in subpar. (B) as so redesignated and "safety" following "more stringent" in provisions following subpar. (D) as so redesignated. Former subsec. (a), relating to interim safety standards, was struck out.

Subsec. (a)(2). Pub. L. 96-129, §§ 101(a), 109(c), added par. (2).

Subsec. (b). Pub. L. 96-129, § 109(c), (f), redesignated former subsec. (c) as (b) and, as so redesignated, inserted "and such date is specified in the regulation establishing or amending such standard" following "period reasonably necessary for compliance". Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 96-129, §§ 104(a)(2), (c), 109(c), redesignated former subsec. (d) as (c) and, as so redesignated, substituted "all actions" for "all orders" and inserted "directing or" preceding "waiving compliance with". Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 96-129, §§ 104(d), 109(c), 152(b)(2), redesignated former subsec. (e) as (d) and, as so redesignated, inserted ", by order" following "the Secretary may" and "and to the same extent" following "in the same manner". Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 96-129, § 109(c), redesignated former subsec. (e) as (d).

EFFECTIVE DATE OF 1979 AMENDMENT

Section 101(c) of Pub. L. 96-129 provided that: "Requirements under the amendments made by subsection (a) [adding subsec. (a)(2) of this section] shall not apply with respect to annual certifications under section 5 [section 1674 of this title] during the 2-year period which begins on the effective date of such requirements."

Amendment by Pub. L. 96-129 effective Nov. 30, 1979, see sections 112 and 156 of Pub. L. 96-129, set out as an Effective Date of 1979 Amendment note under section 1671 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1674a, 1675, 1683 of this title.

§ 1673. Technical Pipeline Safety Standards Committee

(a) Creation; membership; qualifications

The Secretary shall establish a Technical Pipeline Safety Standards Committee. The Committee shall be appointed by the Secretary, after consultation with public and private agencies concerned with the technical aspect of the transportation of gas or the operation of pipeline facilities, and shall be composed of fifteen members each of whom shall be experienced in the safety regulation of the transportation of gas and of pipeline facilities or technically qualified by training, experience, or knowledge in one or more fields of engineering applied in the transportation of gas or the operation of pipeline facilities to evaluate gas pipeline safety standards, as follows:

[*See main edition for text of (1) to (3)*]

(b) Report of proposed standards; publication; record of Committee proceedings

The Secretary shall submit to the Committee any proposed standard under this chapter, or

any proposed amendment to a standard under this chapter, for its consideration. Within 90 days after receipt by the Committee of any proposed standard or amendment, the Committee shall prepare a report on the technical feasibility, reasonableness, and practicability of such standard or amendment. The Secretary may prescribe a final standard or final amendment to a standard at any time after the 90th day after its submission to the Committee, whether or not the Committee has reported on such standard or amendment. Each report by the Committee, including any minority views, shall be published by the Secretary and, if timely made, form a part of the proceedings for the promulgation of standards. In the event that the Secretary rejects the conclusions of the majority of the Committee, he shall not be bound by such conclusions but shall publish his reasons for rejection thereof. The Committee may propose safety standards for pipeline facilities and the transportation of gas to the Secretary for his consideration. The Committee shall meet with the Secretary (or his designee) not less frequently than once every 6 months. All proceedings of the Committee shall be recorded and the record of each such proceeding shall be available for public inspection.

(c) Compensation

Members of the Committee other than Federal employees may be compensated at a rate to be fixed by the Secretary not to exceed the daily equivalent of the maximum annual rate of basic pay then currently payable under the General Schedule under section 5332 of title 5 for each day (including travel time) when engaged in the actual duties of the Committee. All members, while away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5 for persons in the Government service employed intermittently. Payments under this section shall not render members of the Committee employees or officials of the United States for any purpose.

(As amended Pub. L. 96–129, title I, § 102, Nov. 30, 1979, 93 Stat. 991.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96–129, § 102(a), substituted ", experience, or knowledge" for "and experience".

Subsec. (b). Pub. L. 96–129, § 102(b), added provisions permitting the Secretary to prescribe a final standard or final amendment to a standard at any time after the 90th day after its submission to the Committee, whether or not the Committee has reported on such standard or amendment and requiring that the Committee meet with the Secretary (or his designee) not less frequently than once every 6 months and inserted ", if timely made," following "published by the Secretary and".

Subsec. (c). Pub. L. 96–129, § 102(c), substituted "not to exceed the daily equivalent of the maximum annual rate of basic pay then currently payable under the General Schedule under section 5332 of title 5" for "not to exceed $100 per diem".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–129 effective Nov. 30, 1979, see section 112 of Pub. L. 96–129, set out as an Effective Date of 1979 Amendment note under section 1671 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1674. State certifications and agreements

(a) Report to Secretary by State agency; annual certification

Except for section 1686 of this title, and except as otherwise provided in this section, the authority of the Secretary under this chapter to prescribe safety standards and enforce compliance with such standards shall not apply to intrastate pipeline transportation when the safety standards and practices applicable to same are regulated by a State agency (including a municipality) which submits to the Secretary an annual certification that such State agency (1) has regulatory jurisdiction over the safety standards and practices of such transportation; (2) has adopted, as of the date of the certification, each Federal safety standard established under this chapter which is applicable to such transportation or, with respect to each such Federal safety standard established within one hundred and twenty days before the date of the certification, is taking steps pursuant to State law to adopt such standard; (3) is enforcing each such standard; (4) is encouraging and promoting programs designed to prevent damage to pipeline facilities as a consequence of demolition, excavation, tunneling, or construction activity; and (5) has the authority to require record maintenance, reporting, and inspection substantially the same as are provided under section 1681 of this title and the filing for approval of plans of inspection and maintenance described in section 1680 of this title; and that the law of the State makes provision for the enforcement of the safety standards of such State agency by way of injunctive and monetary sanctions substantially the same as are provided under sections 1679a (other than subsection (a)(3) thereof) and 1679b of this title. Each annual certification shall include a report, in such form as the Secretary may by regulation provide, showing (i) name and address of each person subject to the safety jurisdiction of the State agency; (ii) all accidents or incidents reported during the preceding 12 months by each such person involving personal injury requiring hospitalization, fatality, property damage exceeding $5,000 (whether or not sustained by a person subject to the safety jurisdiction of the State agency) and any other accident which the State agency considers significant, together with a summary of the State agency's investigation as to the cause and circumstances surrounding such accident or incident; (iii) the record maintenance, reporting, and inspection practiced by the State agency to enforce compliance with such Federal safety standards, including a detail of the number of inspections

made of pipeline facilities by the State agency during the preceding twelve months; and (iv) such other information as the Secretary may require. The report included with the first annual certification need not show information unavailable at that time. If after receipt of annual certification, the Secretary determines that the State agency is not satisfactorily enforcing compliance with Federal safety standards, he may, on reasonable notice and after opportunity for hearing, reject the certification or take such other action as he deems appropriate to achieve adequate enforcement including the assertion of Federal jurisdiction. When such notice is given by the Secretary, the burden of proof shall be upon the State agency to show that it is satisfactorily enforcing compliance with Federal safety standards.

(b) Agreements with State agencies; notification to Secretary of violations of standards

With respect to any intrastate pipeline transportation for which the Secretary does not receive an annual certification under subsection (a) of this section, the Secretary may, by agreement with a State agency (including a municipality) authorize such agency to assume responsibility for, and carry out on behalf of the Secretary as it relates to intrastate pipeline transportation the necessary actions to—

(1) establish an adequate program for record maintenance, reporting, and inspection designed to assist compliance with Federal safety standards; and

(2) establish procedures for approval of plans of inspection and maintenance substantially the same as are required under section 1680 of this title.

Any agreement executed pursuant to this subsection shall require the State agency promptly to notify the Secretary of any violation or probable violation of a Federal safety standard which it discovers as a result of its program.

(c) Monitoring requirements

The Secretary may conduct whatever monitoring may be necessary of any State program established by certification or agreement under this section to assure that such programs are being carried out in compliance with such certification or agreement. State agencies shall cooperate fully in any monitoring of their programs under this subsection.

(d) Grants to aid State enforcement; withholding funds from State agency

(1) Except as otherwise provided in this section, if an application is submitted not later than September 30 in any calendar year, the Secretary shall pay out of funds appropriated or otherwise made available up to 50 per centum of the cost of the personnel, equipment, and activities of a State agency reasonably required, during the following calendar year to carry out a safety program under a certification under subsection (a) or an agreement under subsection (b) of this section; or to act as agent of the Secretary with respect to interstate transmission facilities. The Secretary may, after notice and consultation with a State agency, withhold all or any part of the funds for a particular State agency if he determines that such State agency (A) is not satisfactorily carrying out a safety program under a certification under subsection (a) or an agreement under subsection (b) of this section, or (B) is not satisfactorily acting as agent of the Secretary with respect to interstate transmission facilities. No such payment may be made unless the State agency making application under this subsection gives assurances satisfactory to the Secretary that the State agency will provide the remaining cost of such a safety program and that the aggregate expenditures of funds of the State, exclusive of Federal grants, for gas safety programs will be maintained at a level which does not fall below the average level of such expenditures for the last two fiscal years preceding August 12, 1968.

(2) Funds authorized to be appropriated by section 1684(b) of this title shall be allocated among the several States for payments to aid in the conduct of pipeline safety programs in accordance with paragraph (1) of this subsection.

(3) Payments under this section may be made in installments, in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

(4) The Secretary may, by regulation, provide for the form and manner of filing of applications under this section, and for such reporting and fiscal procedures as he deems necessary to assure the proper accounting for Federal funds.

(e) Recertification

A certification which is in effect under subsection (a) of this section shall not apply with respect to any new or amended Federal safety standard established for intrastate pipeline transportation pursuant to this chapter after the date of such certification. The provisions of this chapter shall apply to any such new or amended Federal safety standard until the State agency has adopted such standard and has submitted an appropriate certification in accordance with the provisions of subsection (a) of this section.

(f) Termination of agreement

Any agreement under this section may be terminated by the Secretary if, after notice and opportunity for a hearing, he finds that the State agency has failed to comply with any provision of such agreement. Such finding and termination shall be published in the Federal Register, and shall become effective no sooner than fifteen days after the date of publication.

(As amended Pub. L. 96-129, title I, §§ 101(b), 103, 109(g), (h)(1)-(3), Nov. 30, 1979, 93 Stat. 990, 991, 996.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-129, §§ 101(b), 103(a), (b)(3), 109(g), (h)(1), substituted "Except for section 1686 of this title, and except as otherwise provided in this section, the authority of the Secretary under this chapter to prescribe safety standards and enforce compliance with such standards" for "Except for the fourth sentence of section 1672(b) of this title, section 1681(b) of this title, and except as otherwise provided in this section", "demolition, excavation, tunneling, or construction" for "excavation", "sections 1679a (other than subsection (a)(3) thereof) and 1679b of this title" for "sections 1678 and 1679 of this title; except that a State agency may file a certification under this subsec-

tion without regard to the requirement of injunctive and monetary sanctions under State law for a period not to exceed five years after August 12, 1968", and "$5,000 (whether or not sustained by a person subject to the safety jurisdiction of the State agency) and any other accident which the State agency considers significant" for "$1,000" and made conforming amendments to the basic law to accommodate changes in section numbering.

Subsec. (b). Pub. L. 96-129, §§ 103(b)(1), 109(h)(2), struck out par. (3), relating to an agreement with a State agency to implement a compliance program acceptable to the Secretary including a provision for inspection of pipeline facilities used in such transportation of gas and par. (4), relating to an agreement with a State agency to cooperate fully in a system of Federal monitoring of such compliance program and reporting under regulations prescribed by the Secretary and made conforming amendments to the basic law to accommodate changes in section numbering.

Subsec. (c). Pub. L. 96-129, § 103(b)(2)(C), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 96-129, §§ 103(b)(2)(B), 109(h)(3), redesignated former subsec. (c) as (d) and, as so redesignated, made conforming amendments to the basic law to accommodate changes in section numbering. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 96-129, § 103(b)(2)(B), redesignated former subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 96-129, § 103(b)(2)(A), (B), redesignated former subsec. (e) as (f). Former subsec. (f), relating to natural gas pipeline safety inspectors, was struck out.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-129 effective Nov. 30, 1979, see section 112 of Pub. L. 96-129, set out as an Effective Date of 1979 Amendment note under section 1671 of this title.

§ 1674a. Establishment of standards for LNG facilities

(a) Safety standards respecting location, design, installation, construction, and initial inspection and testing of LNG facilities

(1) Not later than 180 days after November 30, 1979, the Secretary shall establish, by regulation—

(A) minimum safety standards for determining the location of any new LNG facility, and

(B) minimum safety standards for the design, installation, construction, initial inspection, and initial testing of any new LNG facility.

(2) After the date standards first take effect under this section, no new LNG facility may be constructed other than in accordance with the applicable standards prescribed under this section. The Secretary shall ensure that the facility is constructed and operated in compliance with such standards.

(3) No new LNG facility may be operated unless the person operating such facility has previously submitted a contingency plan which sets forth those steps which are to be taken in the event of an LNG accident and which is determined to be adequate by the Department of Energy or the appropriate State agency, in the case of any facility not subject to the jurisdiction of the Department under the Natural Gas Act [15 U.S.C. 717 et seq.].

(b) Standards respecting operation and maintenance of LNG facilities

Not later than 270 days after November 30, 1979, the Secretary shall establish minimum standards to be maintained with respect to the operation and maintenance of any LNG facility.

(c) Effect on existing LNG facilities

(1)(A) Except to the extent provided under subparagraph (B), any standard issued under this chapter after March 1, 1978, affecting the design, location, installation, construction, initial inspection, or initial testing shall not apply to an existing LNG facility either—

(i) under the authority of this chapter; or

(ii) under the authority of any other Federal law if such standard was not issued at the time such authority was exercised.

(B) Any such standard (other than one affecting location) may be made applicable under the provisions of such standard to any replacement component or part thereof of an LNG facility if that component or part is placed in service after the date of the issuance of that standard, but only if such applicability—

(i) would not render such component or part incompatible with the other components or parts of the facility involved; or

(ii) would not otherwise be impracticable.

No standard issued under this chapter after March 1, 1978, affecting location shall apply to any replacement component or part thereof of an existing LNG facility.

(2) Nothing in this section shall preclude the application of standards under section 1672 of this title to pipeline facilities (other than LNG facilities) associated with LNG facilities.

(3) Standards affecting the design, installation, construction, initial inspection, and initial testing shall not be applicable to LNG facilities in existence on the date such standards are adopted.

(d) Factors considered in prescribing general safety standards

In prescribing general safety standards under subsections (a) and (b) of this section, the Secretary shall take into consideration—

(1) with respect to standards relating to the location of any new LNG facility—

(A) the nature of the use of the facility;

(B) the existing and projected population and demographic characteristics associated with the location involved;

(C) the existing and proposed land uses near such location;

(D) the meteorological, geological, topographical, seismic, and other natural physical aspects of such location;

(E) the medical, law enforcement, and fire prevention capabilities existing near such location to cope with risks created by such a facility; and

(F) the need to encourage remote siting;

(2) with respect to standards applicable to the design, installation, construction, initial inspection, and initial testing of any new LNG facility—

(A) the thermal resistance and other characteristics of materials to be used in

the construction of such facility as compared to alternative materials;

(B) design factors (such as multiple diking, insulated concrete, and vapor containment barriers);

(C) the characteristics of the LNG to be stored or converted at, or transported by, such facility (for example, whether it is to be in a liquid or semisolid state); and

(D) the public safety factors of the design as compared to alternative designs (particularly the ability under such a design to prevent and contain an LNG spill); and

(3) with respect to standards for the operation and maintance [1] of any LNG facility—

(A) the conditions, features, and type of equipment and structures which comprise, or which are used in connection with, such facility;

(B) the fire prevention and containment equipment at such facility;

(C) the security measures to be used with respect to the operation of such facility for the prevention of sabotage or other intentional acts which could cause an LNG accident;

(D) maintenance procedures and equipment;

(E) the training of personnel with respect to the equipment, structures, measures, and procedures described in subparagraphs (A), (B), (C), and (D); and

(F) other factors and conditions relating to the safe handling of LNG.

(e) Amendment of standards

At any time after the effective date of standards initially prescribed under subsections (a) and (b) of this section, the Secretary shall, on his own motion or on the motion of any person, amend such standards to the extent he considers necessary to reflect changes in technology or to otherwise carry out the purposes of this section.

(f) Applicability of provisions of section 1672 of this title to standards prescribed under this section

The provisions of the last two sentences of subsection (a)(1) of section 1672 of this title and of subsections (b), (c), and (d) of section 1672 of this title shall apply with respect to standards prescribed under this section in the same manner as they apply to standards prescribed under section 1672 of this title.

(Pub. L. 90-481, § 6, as added Pub. L. 96-129, title I, § 152(a), Nov. 30, 1979, 93 Stat. 999.)

REFERENCES IN TEXT

The Natural Gas Act, referred to in subsec. (a)(3), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§ 717 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 717w of Title 15 and Tables.

PRIOR PROVISIONS

A prior section 6 of Pub. L. 90-481 was renumbered 8 by Pub. L. 96-129, title I, § 152(a), Nov. 30, 1979, 93 Stat. 999, and is classified to section 1675 of this title.

[1] So in original. Probably should be "maintenance".

EFFECTIVE DATE

Section effective Nov. 30, 1979, see section 156 of Pub. L. 96-129, set out as an Effective Date of 1979 Amendment note under section 1671 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1679a of this title.

§ 1674b. Financial responsibility for certain LNG facilities

(a) Study regarding risks associated with production, transportation, and storage of LNG and liquid petroleum gas; report to Congress

Not later than 270 days after November 30, 1979, the Secretary shall—

(1) conduct a study of—

(A) the risks associated with the production, transportation, and storage of LNG;

(B) the risks associated with the production, transportation, and storage of liquified petroleum gas;

(C) the methods of assuring adequate financial responsibility for those engaged in any such activity; and

(2) prepare and transmit to each House of the Congress a report on the results of such study, together with the recommendations of the Secretary for such legislative or administrative action as he considers appropriate.

(b) Notice of inadequate financial responsibility; hearing; judicial review

(1) Whenever the Secretary has reason to believe that any operator of an LNG facility is not maintaining adequate insurance or otherwise does not have adequate financial responsibility with respect to such facilities, he may issue and serve upon such operator notice thereof, together with a statement of the amount of the financial responsibility that the Secretary would consider adequate.

(2) Any person issued notice under paragraph (1) shall have a right to hearing on the record in accordance with section 554 of title 5, to be held not later than 30 days after notice under paragraph (1), at which such person has the right to show cause as to why an order should not be issued by the Secretary requiring such person to demonstrate and maintain financial responsibility at or above the amount indicated in the notice under paragraph (1).

(3) After an opportunity for hearing under paragraph (2), the Secretary may, if he determines it is justified in the public interest, order the person issued notice of such hearing to demonstrate and maintain financial responsibility at or above an amount determined appropriate by the Secretary, taking into account any information, data, and views presented in such hearing.

(4)(A) Any person aggrieved by an order issued under paragraph (3) may seek judicial review of such order only by filing a petition for review in the appropriate court of appeals of the United States within 60 days after such order is issued.

(B) Upon receipt of notice of the filing of such petition, the Secretary shall file in the court the record in the proceeding, as provided

in section 2112 of title 28. Upon such filing, the court may affirm, modify, remand, or set aside the order of the Secretary, and may enforce the order to the extent that such order is affirmed and issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public pendente lite. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

(C) The judgment and decree of the court shall be final, except that such judgment and decree shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28.

(c) Methods acceptable for maintenance of financial responsibility

For purposes of subsection (b) of this section, financial responsibility may be maintained by any one of, or a combination of, the following methods acceptable to the Secretary:

(1) evidence of insurance,

(2) surety bonds,

(3) qualification as a self-insurer, or

(4) other evidence of financial responsibility.

(Pub. L. 90-481, § 7, as added Pub. L. 96-129, title I, § 153, Nov. 30, 1979, 93 Stat. 1001.)

PRIOR PROVISIONS

A prior section 7 of Pub. L. 90-481 was renumbered 9 by Pub. L. 96-129, title I, § 152(a), Nov. 30, 1979, 93 Stat. 999, and is classified to section 1676 of this title.

EFFECTIVE DATE

Section effective Nov. 30, 1979, see section 156 of Pub. L. 96-129, set out as an Effective Date of 1979 Amendment note under section 1671 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1679a of this title.

§ 1675. Judicial review

(a) Person aggrieved; venue

Any person who is or will be adversely affected or aggrieved by any regulation issued under this chapter or any order with respect to an application for a waiver under section 1672(d) of this title may at any time prior to the sixtieth day after such regulation or order is issued file a petition for a judicial review with the United States Court of Appeals for the District of Columbia or for the circuit wherein such petitioner is located or has his principal place of business. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose.

(b) Jurisdiction

Upon the filing of the petition referred to in subsection (a) of this section, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5 and to grant appropriate relief as provided in such chapter.

(c) Appeal

The judgment of the court affirming or setting aside, in whole or in part, any such regulation or order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

[*See main edition for text of (d) and (e)*]

(Pub. L. 90-481, § 8, formerly § 6, Aug. 12, 1968, 82 Stat. 724, renumbered and amended Pub. L. 96-129, title I, §§ 104(e)(2), (3), 152(a), Nov. 30, 1979, 93 Stat. 994, 999.)

PRIOR PROVISIONS

A prior section 8 of Pub. L. 90-481 was renumbered 10 by Pub. L. 96-129, title I, § 152(a), Nov. 30, 1979, 93 Stat. 999, and is classified to section 1677 of this title.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-129, § 104(e)(2), substituted "any regulation issued under this chapter or any order with respect to an application for a waiver under section 1672(d) of this title" for "any order issued under this chapter" and "such regulation or order is issued" for "such order is issued".

Subsec. (b). Pub. L. 96-129, § 104(e)(3), substituted "regulation or order" for "order".

Subsec. (c). Pub. L. 96-129, § 104(e)(3), substituted "regulation or order" for "order".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-129 effective Nov. 30, 1979, see section 112 of Pub. L. 96-129, set out as an Effective Date of 1979 Amendment note under section 1671 of this title.

§ 1676. Cooperation with Federal Energy Regulatory Commission and State commissions

Whenever the establishment of a standard or action upon application for waiver under the provisions of this chapter, would affect continuity of any gas services, the Secretary shall consult with and advise the Federal Energy Regulatory Commission or State commission having jurisdiction over the affected pipeline facility before establishing the standard or acting on the waiver application and shall defer the effective date until the Federal Energy Regulatory Commission or any such commission has had reasonable opportunity to grant the authorizations it deems necessary. In any proceedings under section 717b or section 717f of title 15 for authority to import natural gas or to establish, construct, operate, or extend pipeline facilities which are or will be subject to Federal or other applicable safety standards, any applicant shall certify that it will design, install, inspect, test, construct, operate, replace, and maintain the pipeline facilities in accordance with Federal and other applicable safety standards and plans for maintenance and inspection. Such certification shall be binding and conclusive upon the Department of Energy and the Commission unless the relevant enforcement agency has timely advised the Commission in writing that the applicant has violated safety standards established pursuant to this chapter.

(Pub. L. 90-481, § 9, formerly § 7, Aug. 12, 1968, 82 Stat. 725, renumbered and amended Pub. L. 96-129, title I, §§ 109(i), 152(a), (b)(3), Nov. 30, 1979, 93 Stat. 997, 999, 1001.)

PRIOR PROVISIONS

A prior section 9 of Pub. L. 90-481 was classified to section 1678 of this title, and was repealed by Pub. L. 96-129, title I, § 104(b), Nov. 30, 1979, 93 Stat. 992.

AMENDMENTS

1979—Pub. L. 96-129, §§ 109(i), 152(b)(3), substituted "Federal Energy Regulatory Commission" for "Federal Power Commission" wherever appearing and "pipeline facilities which are" for "a gas pipeline which is" and inserted "section 717b or" following "proceedings under", "to import natural gas or" following "authority", and "the Department of Energy and" preceding "the Commission unless".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-129 effective Nov. 30, 1979, see sections 112 and 156 of Pub. L. 96-129, set out as Effective Date of 1979 Amendment notes under section 1671 of this title.

§ 1677. Compliance

(a) Requirements regarding standards and inspection and maintenance

Each person who engages in the transportation of gas or who owns or operates pipeline facilities shall—

[*See main edition for text of (1)*]

(2) prepare and maintain a plan of inspection and maintenance required by section 1680 of this title and comply with such plan; and

[*See main edition for text of (3)*]

(b) Orders directing compliance

(1) The Secretary may issue orders directing compliance with this chapter or any regulation issued under this chapter. Any such order shall clearly set forth the particular actions required of the person to whom the order is issued.

(2) The district courts of the United States shall have jurisdiction, upon petition by the Attorney General, to enforce any such order by appropriate means.

(c) Tort liability

Nothing in this chapter shall affect the common law or statutory tort liability of any person.

(Pub. L. 90-481, § 10, formerly § 8, Aug. 12, 1968, 82 Stat. 725, renumbered and amended Pub. L. 96-129, title I, §§ 104(a)(1), 105(b), 109(h)(4), 152(a), Nov. 30, 1979, 93 Stat. 992, 994, 996, 999.)

PRIOR PROVISIONS

A prior section 10 of Pub. L. 90-481 was classified to section 1679 of this title, and was repealed by Pub. L. 96-129, title I, § 104(b), Nov. 30, 1979, 93 Stat. 992.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-129, §§ 105(b), 109(h)(4), in par. (2) substituted "prepare and maintain a plan of inspection and maintenance required by section 1680 of this title and comply with such plan" for "file and comply with a plan of inspection and maintenance required by section 1680 of this title" and made conforming amendments to the basic law to accommodate changes in section numbering.

Subsec. (b). Pub. L. 96-129, § 104(a)(1), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 96-129, § 104(a)(1), redesignated former subsec. (b) as (c).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-129 effective Nov. 30, 1979, see section 112 of Pub. L. 96-129, set out as an Effective Date of 1979 Amendment note under section 1671 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1679a of this title.

§§ 1678, 1679. Repealed. Pub. L. 96-129, title I, § 104(b), Nov. 30, 1979, 93 Stat. 992

Section 1678, Pub. L. 90-481, § 9, Aug. 12, 1968, 82 Stat. 725, related to civil penalties for violation of provisions of section 1677(a) of this title or any regulation issued under this chapter.

Section 1679, Pub. L. 90-481, § 10, Aug. 12, 1968, 82 Stat. 726, related to jurisdiction of the court and injunctive relief.

EFFECTIVE DATE OF REPEAL; SAVINGS PROVISION

Repeal of section effective Nov. 30, 1979, except for suits, actions, or other proceedings pending on Nov. 30, 1979, which shall not be effected by certain provisions of Pub. L. 96-129 and shall be completed as if Pub. L. 96-129 had not been enacted, unless the Secretary makes a determination that the public safety otherwise requires, see section 112 of Pub. L. 96-129, set out as an Effective Date of 1979 Amendment note under section 1671 of this title.

§ 1679a. Penalties

(a) Civil penalties

(1) Any person who is determined by the Secretary to have violated any provisions of section 1677(a) of this title or any regulation or order issued under this chapter including any order issued under sections 1677(b) and 1679b(b) of this title, shall be liable to the United States for a civil penalty of not more than $1,000 for each violation for each day that violation persists, except that the maximum civil penalty shall not exceed $200,000 for any related series of violations.

(2) Any person who is determined by the Secretary to have violated any standard or order under section 1674a and 1674b(b) of this title shall be subject to a civil penalty of not to exceed $50,000, which penalty shall be in addition to any other penalties to which such person may be subject under this subsection.

(3) The amount of the penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, any history of prior violations, the effect on ability to continue to do business, any good faith in attempting to achieve compliance, ability to pay the penalty, and such other matters as justice may require.

(b) Action by Attorney General to recover subsec. (a) penalty

A civil penalty assessed under subsection (a) of this section may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, prior to referral to the Attorney General, it may be compro-

mised by the Secretary. The amount of the penalty, when finally determined (or agreed upon in compromise), may be deducted from any sums owed by the United States to the person charged. All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

(c) Criminal penalties

(1) Any person who willfully and knowingly violates section 1677(a) of this title or a regulation or order issued under this chapter, including any order issued under sections 1677(b) and 1679b(b) of this title, shall, upon conviction, be subject, for each offense, to a fine of not more than $25,000, imprisonment for a term not to exceed 5 years, or both.

(2) Any person who willfully and knowingly injures or destroys, or attempts to injure or destroy, any interstate transmission facility shall, upon conviction, be subject, for each offense, to a fine of not more than $25,000, imprisonment for a term not to exceed 15 years, or both.

(d) Violations based on same act

Nothing in this chapter shall be construed to authorize the imposition of penalties for the violation of any regulation and the violation of any order under section 1677(b) or 1679b(b) of this title if both violations are based on the same act.

(Pub. L. 90-481, § 11, as added and amended Pub. L. 96-129, title I, §§ 104(b), 154, Nov. 30, 1979, 93 Stat. 992, 1002.)

PRIOR PROVISIONS

A prior section 11 of Pub. L. 90-481 was renumbered 13 by Pub. L. 96-129, title I, § 104(b), Nov. 30, 1979, 93 Stat. 992, and is classified to section 1680 of this title.

AMENDMENTS

1979—Subsec. (a)(2). Pub. L. 96-129, § 154, added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 96-129, § 154, redesignated former par. (2) as (3).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by section 154 of Pub. L. 96-129 effective Nov. 30, 1979, see section 156 of Pub. L. 96-129, set out as an Effective Date of 1979 Amendment note under section 1671 of this title.

EFFECTIVE DATE

Section effective Nov. 30, 1979, see section 112 of Pub. L. 96-129, set out as an Effective Date of 1979 Amendment note under section 1671 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1674 of this title.

§ 1679b. Specific relief

(a)(1) The Attorney General, at the request of the Secretary, may bring an action in an appropriate district court of the United States for equitable relief to redress or restrain a violation by any person of a provision of this chapter or a regulation issued under this chapter. Such district courts shall have jurisdiction to determine such actions and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

(2) In any proceeding for criminal contempt for violation of a mandatory or prohibitive injunction issued under this subsection, which violation also constitutes a violation of this chapter, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(b)(1) If the Secretary finds, after reasonable notice and an opportunity for hearing, that any pipeline facility is hazardous to life or property, he shall, by order, require the person operating the facility to take necessary corrective action. Such corrective action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other action, as appropriate.

(2) The Secretary may find a pipeline facility to be hazardous under paragraph (1)—

(A) if under the facts and circumstances he determines the particular facility is hazardous to life or property, or

(B) if the pipeline facility or a component thereof has been constructed or operated with any equipment, material, or technique which he determines is hazardous to life or property, unless the operator involved demonstrates to the satisfaction of the Secretary that under the particular facts and circumstances involved such equipment, material, or technique is not hazardous to life or property.

(3) In making a determination under paragraph (2), the Secretary shall consider, if relevant—

(A) the characteristics of the pipe and other equipment used in the pipeline facility involved, including its age, manufacturer, physical properties (including its resistance to corrosion and deterioration), and the method of its manufacture, construction, or assembly;

(B) the nature of the materials transported by such facility (including their corrosive and deteriorative qualities), the sequence in which such materials are transported, and the pressure required for such transportation;

(C) the aspects of the areas in which the pipeline facility is located, in particular the climatic and geologic conditions (including soil characteristics) associated with such areas, and the population density and population and growth patterns of such areas;

(D) any recommendation of the National Transportation Safety Board issued in connection with any investigation conducted by the Board under other provisions of law; and

(E) such other factors as the Secretary may consider appropriate.

(4) The district courts of the United States shall have jurisdiction, upon petition by the Attorney General, to enforce orders issued under this subsection by appropriate means.

(5) The Secretary may waive the requirements for notice and hearing under this subsection and provide for expeditious issuance of an order under this subsection in any case in which he determines that the failure to do so would result in the likelihood of serious harm to life or property. However, the Secretary

shall include in such an order an opportunity for hearing as soon as practicable after issuance of an order.

(Pub. L. 90-481, § 12, as added Pub. L. 96-129, title I, § 104(b), Nov. 30, 1979, 93 Stat. 993.)

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in subsec. (a)(2), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

PRIOR PROVISIONS

A prior section 12 of Pub. L. 90-481 was renumbered 14 by Pub. L. 96-129, title I, § 104(b), Nov. 30, 1979, 93 Stat. 992, and is classified to section 1681 of this title.

EFFECTIVE DATE

Section effective Nov. 30, 1979, see section 112 of Pub. L. 96-129, set out as an Effective Date of 1979 Amendment note under section 1671 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1674, 1679a of this title.

§ 1680. Inspection and maintenance plans

Each person who engages in the transportation of gas or who owns or operates intrastate pipeline transportation facilities shall prepare, maintain at such office or offices of that person as the Secretary determines appropriate, and carry out a written current plan for inspection and maintenance of each facility used in such transportation and owned or operated by such person, and any changes in such plan, in accordance with regulations prescribed by the Secretary or appropriate State agency. The Secretary may, by regulation, also require persons who engage in the transportation of gas or who own or operate pipeline facilities subject to the provisions of this chapter to file such plans for approval. If at any time the agency with responsibility for enforcement of compliance with the standards established under this chapter finds that such plan is inadequate to achieve safe operation, such agency shall, after notice and opportunity for a hearing, require such plan to be revised. The plan required by the agency shall be practicable and designed to meet the need for pipeline safety. Such plans shall be made available to the Secretary or the appropriate State agency upon request pursuant to section 1681 of this title. In determining the adequacy of any such plan, such agency shall consider—

[*See main edition for text of (1) to (4)*]

(Pub. L. 90-481, § 13, formerly § 11, Aug. 12, 1968, 82 Stat. 726; Pub. L. 94-477, § 6, Oct. 11, 1976, 90 Stat. 2075; renumbered and amended Pub. L. 96-129, title I, §§ 104(b), 105(a), Nov. 30, 1979, 93 Stat. 992, 994.)

PRIOR PROVISIONS

A prior section 13 of Pub. L. 90-481 was renumbered 15 by Pub. L. 96-129, title I, § 104(b), Nov. 30, 1979, 93 Stat. 992, and is classified to section 1682 of this title.

AMENDMENTS

1979—Pub. L. 96-129, § 105(a), substituted "shall prepare, maintain at such office or offices of that person as the Secretary determines appropriate, and carry out a written current plan for inspection and maintenance" for "shall file with the Secretary or, if a certification or an agreement pursuant to section 1674 of this title is in effect, with the appropriate State agency, a plan for inspection and maintenance" and added provision requiring that such plan be made available to the Secretary or the appropriate State agency upon request pursuant to section 1681 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-129 effective Nov. 30, 1979, see section 112 of Pub. L. 96-129, set out as an Effective Date of 1979 Amendment note under section 1671 of this title.

§ 1681. Powers and duties of Secretary

(a) General authority

The Secretary may, to the extent necessary to carry out his responsibilities under this chapter, conduct investigations, make reports, issue subpenas, conduct hearings, require the production of relevant documents and records, take depositions, and conduct, directly or, by contract, or otherwise, research, testing, development, demonstration, and training activities; however, before the Secretary may exercise authority under this section to require testing of portions of pipeline facilities subject to the provisions of this chapter which have been involved in or affected by an accident, he shall make every effort to negotiate a mutually acceptable plan with the owner of such facilities and, where appropriate, the National Transportation Safety Board for performing such testing.

(b) Records and reports of persons engaged in transportation of gas or who own or operate pipeline facilities

Each person who engages in the transportation of gas or who owns or operates pipeline facilities shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require, and shall submit such reports and shall make such records and information available as the Secretary may request, to enable him to determine whether such person has acted or is acting in compliance with this chapter and the standards or orders issued under this chapter.

(c) Inspection of records and property

Officers, employees, or agents authorized by the Secretary, upon presenting appropriate credentials to the person in charge, are authorized to enter upon, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent such records and properties are relevant to determining whether such persons have acted or are acting in compliance with this chapter and the standards or orders issued under this chapter.

(d) Availability of accident reports and research and demonstration project reports

Accident reports made by any officer, employee, or agent of the Department of Transportation shall be available for use in any civil, criminal, or other judicial proceeding arising out of such accident. Any such officer, employee, or agent may be required to testify in such pro-

ceedings as to the facts developed in such investigations. Any such report shall be made available to the public in a manner which need not identify individuals. All reports on research projects, demonstration projects, and other related activities shall be public information.

(e) Disclosure of information relating to trade secrets

All information reported to or otherwise obtained by the Secretary or his representative pursuant to subsection (a), (b), or (c) of this section which information contains or relates to a trade secret referred to in section 1905 of title 18 shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this chapter or when relevant in any proceeding under this chapter. Nothing in this section shall authorize the withholding of information by the Secretary or any officer, employee, or agent under his control, from the duly authorized committees of the Congress.

(Pub. L. 90–481, § 14, formerly § 12, Aug. 12, 1968, 82 Stat. 727, renumbered and amended Pub. L. 96–129, title I, §§ 104(b), 106, Nov. 30, 1979, 93 Stat. 992, 994.)

PRIOR PROVISIONS

A prior section 14 of Pub. L. 90–481 was renumbered 16 by Pub. L. 96–129, title I, § 104(b), Nov. 30, 1979, 93 Stat. 992, and is classified to section 1683 of this title.

AMENDMENTS

1979—Pub. L. 96–129, § 106, substituted provisions relating to powers and duties of the Secretary for provisions relating to records, reports and inspections.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–129 effective Nov. 30, 1979, see section 112 of Pub. L. 96–129, set out as an Effective Date of 1979 Amendment note under section 1671 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1674, 1677, 1680 of this title.

§ 1682. Administration

(a) Information furnished to Federal Energy Regulatory Commission or any appropriate State agency

Upon request, the Secretary shall furnish to the Federal Energy Regulatory Commission, or any appropriate State agency, any information he has concerning the safety of any materials, operations, devices, or processes relating to the transportation of gas or the operation of pipeline facilities.

(b) Cooperation with other agencies

The Secretary is authorized to advise, assist, and cooperate with other Federal departments and agencies and State and other interested public and private agencies and persons, in the planning and development of (1) Federal safety standards, and (2) methods for inspecting and testing to determine compliance with Federal safety standards.

(c) Consultation with other agencies

The Secretary is authorized to consult with, and make recommendations to, other Federal departments and agencies, State and local governments, and other public and private agencies or persons, for the purpose of developing and encouraging activities, including the enactment of legislation, to assist in the implementation of this chapter and to improve State and local pipeline safety programs.

(d) Intervention by Secretary

The Secretary may as a matter of right intervene or otherwise participate in any proceeding before the Federal Energy Regulatory Commission, or any State agency, which involves safety requirements relating to LNG facilities. The Secretary shall comply with rules of procedure of general applicability governing the timing of intervention or participation in such proceeding or activity and, upon intervening or participating therein, shall comply with rules of procedure of general applicability governing the conduct thereof.

(Pub. L. 90–481, § 15, formerly § 13, Aug. 12, 1968, 82 Stat. 727; Pub. L. 92–401, § 3, Aug. 22, 1972, 86 Stat. 616; renumbered and amended Pub. L. 96–129, title I, §§ 104(b), 109(j)(2), (k), 155, Nov. 30, 1979, 93 Stat. 992, 997, 1003.)

PRIOR PROVISIONS

A prior section 15 of Pub. L. 90–481 was renumbered 17 by Pub. L. 96–129, title I, § 104(b), Nov. 30, 1979, 93 Stat. 992, and is classified to section 1684 of this title.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96–129, §§ 109(j)(2), (k), 155(b), redesignated former subsec. (b) as (a) and, as so redesignated, substituted "Federal Energy Regulatory Commission, or any appropriate State agency," for "Federal Power Commission". Former subsec. (a), relating to research and development contracts, was struck out.

Subsec. (b). Pub. L. 96–129, § 109(j)(2), redesignated former subsec. (c) as (b). Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 96–129, § 109(j)(2), redesignated former subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 96–129, § 155(a), added subsec. (d). Former subsec. (d) redesignated (c).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–129 effective Nov. 30, 1979, see sections 112 and 156 of Pub. L. 96–129, set out as Effective Date of 1979 Amendment notes under section 1671 of this title.

COST-BENEFIT ANALYSIS OF INCREASED PIPELINE SAFETY REGULATION

Section 110 of Pub. L. 96–129 provided that:

"(a) Within 12 months after the date of the enactment of this section [Nov. 30, 1979], the Secretary of Transportation, after affording an opportunity for consultation and comment by persons operating pipeline facilities, State and local regulatory authorities with jurisdiction over pipeline safety, and consumers shall conduct and complete a cost-benefit analysis to determine whether additional Federal legislation on pipeline safety is beneficial and submit a report of his findings to the Congress.

"(b) As part of the cost-benefit analysis required by subsection (a), the Secretary of Transportation shall conduct a study of the adequacy and effectiveness of existing pipeline safety regulations. In addition to existing pipeline safety regulations, the study shall address the following issues:

"(1) whether pipeline safety could be significantly enhanced in a cost-effective manner by regulations

requiring pipeline facility operators to prepare and maintain a general description of their pipeline facilities, including—

"(A) the location of the pipeline and the pipeline facilities;

"(B) the type, age, manufacturer, and method of construction of such pipeline and facilities;

"(C) the nature of the materials transported, the sequence in which they are transported, and the pressure at which they are transported; and

"(D) the climatic, geologic, seismic, and conditions (including soil characteristics) associated with the areas in which the pipeline facilities are located, and the existing and projected population and demographic characteristics associated with such areas;

"(2) the cost-effectiveness, feasibility, and potential benefits of establishing in the Department of Transportation a program for use in an electronic data-processing system, which would be used to process and maintain pipeline-safety information obtained under existing and future Federal laws and regulations;

"(3) whether it is necessary and cost-effective to amend existing Federal law and regulations on the reporting of pipeline leaks to require the reporting of any such future leak which—

"(A) the person owning or operating the pipeline facility knew or reasonably should have known existed;

"(B) was not caused by operation, inspection, or adjustment procedures which were properly carried out; and

"(C) posed a threat to public health or safety, property, or the environment."

REPORT ON IMPLEMENTATION EFFORTS REGARDING DISTRIBUTION OF GAS IN CONNECTION WITH RENTAL OR LEASE OF REAL PROPERTY

Section 111 of Pub. L. 96-129 provided that:

"(a) Not later than 18 months after the date of the enactment of this Act [Nov. 30, 1979], the Secretary of Transportation shall prepare and transmit to each House of the Congress a report on how, when, and to what extent the Department of Transportation intends to implement its safety jurisdiction over the distribution of gas by any person in connection with the rental or lease of real property by that person, particularly in instances in which the gas being distributed to the renter or lessee is not separately metered.

"(b) The Secretary shall provide reasonable notice and an opportunity for public comment in connection with the preparation of the report required under subsection (a)."

§ 1683. Annual report to the President and Congress

(a) The Secretary shall prepare and submit to the President for transmittal to the Congress on June 15 of each year a comprehensive report on the administration of this chapter for the preceding calendar year. Such report shall include—

[*See main edition for text of (1) and (2)*]

(3) a summary of the reasons for each waiver granted under section 1672(d) of this title during such year;

[*See main edition for text of (4) to (8)*]

(9) a compilation of—

(A) certifications filed by State agencies (including municipalities) under section 1674(a) of this title which were in effect during the preceding calendar year, and

(B) certifications filed under section 1674(a) of this title which were rejected by the Secretary during the preceding calendar year, together with a summary of the reasons for each such rejection;

(10) a compilation of—

(A) agreements entered into with State agencies (including municipalities) under section 1674(b) of this title which were in effect during the preceding calendar year, and

(B) agreements entered into under section 1674(b) of this title which were terminated by the Secretary during the preceding calendar year, together with a summary of the reasons for each such termination; and

(11) a description of the number and qualifications of State pipeline safety inspectors in each State for which a certification or agreement is in effect under section 1674 of this title, together with the number of such pipeline inspectors (and their qualifications) which the Secretary recommends for that State.

[*See main edition for text of (b)*]

(Pub. L. 90-481, § 16, formerly § 14, Aug. 12, 1968, 82 Stat. 728; Pub. L. 94-477, § 7, Oct. 11, 1976, 90 Stat. 2075; renumbered and amended Pub. L. 96-129, title I, §§ 104(b), 107, 109(*l*), (m), Nov. 30, 1979, 93 Stat. 992, 995, 997.)

PRIOR PROVISIONS

A prior section 16 of Pub. L. 90-481 was renumbered 18 by Pub. L. 96-129, title I, § 104(b), Nov. 30, 1979, 93 Stat. 992, and is classified to section 1685 of this title.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-129, §§ 107, 109(*l*), (m), substituted in provisions preceding par. (1) "June 15" for "March 17" and in par. (3) "section 1672(d)" for "section 1672(e)", and added par. (11).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-129 effective Nov. 30, 1979, see section 112 of Pub. L. 96-129, set out as an Effective Date of 1979 Amendment note under section 1671 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1672, 2012 of this title.

§ 1684. Authorization of appropriations

(a) For the purpose of carrying out the provisions of this chapter (other than provisions for which funds are authorized to be appropriated under subsection (b) of this section), there are authorized to be appropriated—

(1) $6,200,000, for the fiscal year ending September 30, 1980; and

(2) $6,900,000, for the fiscal year ending September 30, 1981.

(b) For the purpose of carrying out the Federal grants-in-aid provisions of section 1674(d) of this title, there are authorized to be appropriated—

(1) $4,500,000, for the fiscal year ending September 30, 1980; and

(2) $5,500,000, for the fiscal year ending September 30, 1981.

(Pub. L. 90-481, § 17, formerly § 15, Aug. 12, 1968, 82 Stat. 729; Pub. L. 92-401, § 4, Aug. 22,

1972, 86 Stat. 616; Pub. L. 93-403, § 3, Aug. 30, 1974, 88 Stat. 801; Pub. L. 94-477, § 2, Oct. 11, 1976, 90 Stat. 2073; renumbered and amended Pub. L. 96-129, title I, §§ 104(b), 108, Nov. 30, 1979, 93 Stat. 992, 996.)

PRIOR PROVISIONS

A prior section 17 of Pub. L. 90-481 was renumbered 19 by Pub. L. 96-129, title I, § 104(b), Nov. 30, 1979, 93 Stat. 992, and is classified to section 1686 of this title.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-129, § 108, substituted provisions authorizing appropriations of $6,200,000 for the fiscal year ending Sept. 30, 1980, and $6,900,000 for the fiscal year ending Sept. 30, 1981, for provisions authorizing appropriations of $2,000,000 for the fiscal year ending June 30, 1975, $2,850,000 for the fiscal year June 30, 1976, $500,000 for the period beginning July 1, 1976, and ending Sept. 30, 1976, $4,664,000 for the fiscal year ending Sept. 30, 1977, and $5,000,000 for the fiscal year ending Sept. 30, 1978.

Subsec. (b). Pub. L. 96-129, § 108, substituted provisions authorizing appropriations for purposes of section 1674(d) of this title of $4,500,000 for the fiscal year ending Sept. 30, 1980, and $5,500,000 for the fiscal year ending Sept. 30, 1981, for provisions authorizing appropriation for purposes of 1674(c) and (f) of this title of $1,800,000 for the fiscal year ending June 30, 1975, $2,500,000 for the fiscal year ending June 30, 1976, $2,500,000 for the fiscal year ending Sept. 30, 1977, and $4,500,000 for the fiscal year ending Sept. 30, 1978.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-129 effective Nov. 30, 1979, see section 112 of Pub. L. 96-129, set out as an Effective Date of 1979 Amendment note under section 1671 of this title.

§ 1685. Consumer education program

[*See main edition for text of section*]

(Pub. L. 90-481, § 18, formerly § 16, as added Pub. L. 94-477, § 8, Oct. 11, 1976, 90 Stat. 2075, and renumbered Pub. L. 96-129, title I, § 104(b), Nov. 30, 1979, 93 Stat. 992.)

§ 1686. Civil actions by citizens

[*See main edition for text of section*]

(Pub. L. 90-481, § 19, formerly § 17, as added Pub. L. 94-477, § 8, Oct. 11, 1976, 90 Stat. 2075, and renumbered Pub. L. 96-129, title I, § 104(b), Nov. 30, 1979, 93 Stat. 992.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1674 of this title.

CHAPTER 25—AVIATION FACILITIES EXPANSION AND IMPROVEMENT

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1354, 1509 of this title; title 42 section 3188a; title 50 App. section 1622.

SUBCHAPTER II—AIRPORT AND AIRWAY DEVELOPMENT

§ 1711. Definitions

As used in this subchapter—

(1) "Air-carrier airport" means an existing public airport regularly served, or a new public airport which the Secretary determines will be regularly served, by an air carrier certificated by the Civil Aeronautics Board under section 1371 of this title (other than a charter air carrier), and a commuter service airport.

[*See main edition for text of (2) to (21)*]

(As amended Pub. L. 95-504, § 41(b), Oct. 24, 1978, 92 Stat. 1748.)

AMENDMENTS

1978—Par. (1). Pub. L. 95-504 substituted "(other than a charter air carrier)" for "(other than a supplemental air carrier)".

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1712. National airport system plan

CHANGE OF NAME

The Secretary of Health, Education, and Welfare was redesignated the Secretary of Health and Human Services by section 3508 of Title 20, Education.

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 1716. Project applications for airport development

[*See main edition for text of (a) and (b)*]

(c) Approval

[*See main edition for text of (1) to (3)*]

(4) It is declared to be national policy that airport development projects authorized pursuant to this subchapter shall provide for the protection and enhancement of the natural resources and the quality of environment of the Nation. In implementing this policy, the Secretary shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency with regard to the effect that any project involving airport location, a major runway extension, or runway location may have on natural resources including, but not limited to, fish and wildlife, natural, scenic, and recreation assets, water and air quality, and other factors affecting the environment, and shall authorize no such project found to have adverse effect unless the Secretary shall render a finding, in writing, following a full and complete review, which shall be a matter of public record, that no feasible and prudent alternative exists and that all possible steps have been taken to minimize such adverse effect.

[*See main edition for text of (d)*]

(e) Air and water quality

(1) The Secretary shall not approve any project application for a project involving airport

location, a major runway extension, or runway location unless the Governor of the State in which such project may be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved or where such standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from the Administrator. Notice of certification or of refusal to certify shall be provided within sixty days after the project application is received by the Secretary.

[*See main edition for text of (2), (f) to (h)*]

(Pub. L. 91-258, title I, § 16, May 21, 1970, 84 Stat. 226; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; 1970 Reorg. Plan No. 3, § 2(a)(1), (3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087; Pub. L. 93-44, § 4, June 18, 1973, 87 Stat. 89; Pub. L. 94-353, title I, § 8(a), (b), July 12, 1976, 90 Stat. 876.)

TRANSFER OF FUNCTIONS

Administrator of the Environmental Protection Agency was substituted in subsec. (c)(4) for reference to the Secretary of Health, Education, and Welfare on authority of 1970 Reorg. Plan No. 3, § 2(a)(3).

Administrator of the Environmental Protection Agency was substituted in subsec. (e)(1) for references to the Secretary of the Interior and the Secretary of Health, Education, and Welfare on authority of 1970 Reorg. Plan No. 3, § 2(a)(1), (3).

§ 1723. Use of Government-owned lands

EXECUTIVE ORDER NO. 10536

Ex. Ord. No. 10536, June 9, 1954, 19 F.R. 3437, as amended by Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, set out as a note under this section in the main edition which related to the exercise of certain functions without approval of the President, was revoked by Ex. Ord. No. 12079, Sept. 18, 1978, 43 F.R. 42233, set out as a note below.

EX. ORD. NO. 12079. EXERCISE OF CERTAIN FUNCTIONS WITHOUT APPROVAL OF THE PRESIDENT

Ex. Ord. No. 12079, Sept. 18, 1978, 43 F.R. 42233, provided:

By the authority vested in me by section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. The authority vested in the heads of departments and agencies by Section 23(b) of the Airport and Airway Development Act of 1970 (84 Stat. 232; 49 U.S.C. 1723(b)), with the approval of the President and the Attorney General of the United States, to perform any acts and to execute any instruments necessary to make any conveyance requested by the Secretary of Transportation under Section 23(a) of that Act [subsec. (a) of this section] may be exercised by such heads of departments and agencies without the approval of the President.

SEC. 2. Executive Order No. 10536 of June 9, 1954, as amended, is revoked.

JIMMY CARTER.

§ 1729. Air carrier airport designation

(a) Service by intrastate air carrier

Notwithstanding any other provision of this chapter, in the case of any public airport at which (A) an air carrier was or is certificated by the Civil Aeronautics Board under section 1371 of this title to serve a city served through such airport, and (B) either (i) service to such city by every such certificated air carrier has been suspended as authorized by the Civil Aeronautics Board, or (ii) authority to serve such city has been deleted from the certificates of every such air carrier by the Civil Aeronautics Board after July 12, 1976, and (C) such airport is served by an intrastate air carrier operating in intrastate air transportation within the meaning of section 1301(25) and (26) of this title, such airport shall be deemed to be an air carrier airport (other than a commuter service airport) for the purposes of this chapter.

(b) Suspended or deleted service

Notwithstanding any other provision of this chapter, any public airport which, on October 24, 1978, is regularly served by an air carrier (other than a charter air carrier) certificated by the Civil Aeronautics Board under section 1371 of this title shall be deemed to be an air carrier airport (other than a commuter service airport) for the purposes of this chapter. This subsection shall cease to be in effect after September 30, 1980.

(As amended Pub. L. 95-163, § 17(b)(1), Nov. 9, 1977, 91 Stat. 1286; Pub. L. 95-504, §§ 2(b), 41(a), Oct. 24, 1978, 92 Stat. 1705, 1748.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), read in the original "this title", meaning title I of Pub. L. 91-258, May 21, 1970, 84 Stat. 219, which is classified principally to this chapter. For complete classification of title I of Pub. L. 91-258 to the Code, see Short Title note set out under section 1701 of this title and Tables.

AMENDMENTS

1978—Pub. L. 95-504, § 2(b), substituted reference to section 1301(25) and (26) of this title for reference to section 1301(23) and (24) of this title.

Pub. L. 95-504, § 41(a), redesignated existing provisions as subsec. (a) and added subsec. (b).

1977—Pub. L. 95-163 substituted reference to section 1301(23) and (24) of this title for reference to section 1301(22) and (23) of this title.

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

CHAPTER 27—HAZARDOUS MATERIALS TRANSPORTATION

§ 1803. Designation of hazardous materials

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 46 section 391a.

§ 1811. Relationship to other laws

[*See main edition for text of (a) and (b)*]

(c) Other federal laws

The provisions of this chapter shall not apply to pipelines which are subject to regulation

under the Natural Gas Pipeline Safety Act of 1968 (section 1671 et seq. of this title) or to pipelines which are subject to regulation under Hazardous Liquid Pipeline Safety Act of 1979 [49 U.S.C. 2001 et seq.].

(As amended Pub. L. 96-129, title II, § 216(a), Nov. 30, 1979, 93 Stat. 1015.)

REFERENCES IN TEXT

The Hazardous Liquid Pipeline Safety Act of 1979, referred to in subsec. (c), is title II of Pub. L. 96-129, Nov. 30, 1979, 93 Stat. 1003, which is classified principally to chapter 29 (§ 2001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of this title and Tables.

AMENDMENTS

1979—Subsec. (c). Pub. L. 96-219 substituted "Hazardous Liquid Pipeline Safety Act of 1979" for "chapter 39 of title 18".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-129 effective Nov. 30, 1979, see section 217 of Pub. L. 96-129, set out as an Effective Date note under section 2001 of this title.

§ 1812. Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this chapter not to exceed $7,000,000 for the fiscal year ending June 30, 1976, not to exceed $1,750,000 for the transition period of July 1, 1976, through September 30, 1976, not to exceed $5,000,000 per fiscal year for the fiscal years ending September 30, 1977, and September 30, 1978, and not to exceed $5,000,000 for the fiscal year ending September 30, 1979.

(As amended Pub. L. 95-403, Sept. 30, 1978, 92 Stat. 863.)

AMENDMENTS

1978—Pub. L. 95-403 inserted ", and not to exceed $5,000,000 for the fiscal year ending September 30, 1979" following "and September 30, 1978".

CHAPTER 28—NATIONAL TRANSPORTATION SAFETY BOARD

§ 1901. Congressional findings

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-363, § 1, Sept. 11, 1978, 92 Stat. 597, provided: "That this Act [amending section 1907 of this title] may be cited as the 'Independent Safety Board Act Amendment of 1978'."

§ 1903. General provisions

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of this title, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

§ 1907. Authorization of appropriations

There are authorized to be appropriated for the purposes of this Act not to exceed $12,000,000 for the fiscal year ending June 30, 1975; and $12,000,000 for the fiscal year ending June 30, 1976, such sums to remain available until expended. There are authorized to be appropriated for the purpose of this Act not to exceed $3,800,000 for the transition quarter ending September 30, 1976, $15,200,000 for the fiscal year ending September 30, 1977, and $16,400,000 for the fiscal year ending September 30, 1978, such sums to remain available until expended. There are authorized to be appropriated for the purposes of this Act not to exceed $16,420,000 for the fiscal year ending September 30, 1979, and $17,650,000 for the fiscal year ending September 30, 1980, such sums to remain available until expended.

(As amended Pub. L. 95-363, § 2, Sept. 11, 1978, 92 Stat. 597.)

AMENDMENTS

1978—Pub. L. 95-363 added provisions authorizing appropriations of not to exceed $16,420,000 for the fiscal year ending Sept. 30, 1979, and $17,650,000 for the fiscal year ending Sept. 30, 1980.

CHAPTER 29—HAZARDOUS LIQUID PIPELINE SAFETY [NEW]

Sec.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1811 of this title.

§ 2001. Definitions

As used in this chapter—

(1) "person" means any individual, firm, joint venture, partnership, corporation, association, State, municipality, cooperative association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof;

(2) "hazardous liquid" means—

(A) petroleum or any petroleum product, and

(B) any substance or material which is in liquid state (excluding liquefied natural gas) when transported by pipeline facilities and which, as determined by the Secretary, may pose an unreasonable risk to life or property when transported by pipeline facilities;

(3) "transportation of hazardous liquids" means the movement of hazardous liquids by pipeline, or their storage incidental to such movement, in or affecting interstate or foreign commerce; except that it shall not include any such movement through gathering lines in rural locations or onshore production, refining, or manufacturing facilities or storage or in-plant piping systems associated with any of such facilities;

(4) "pipeline facilities" includes, without limitation, new and existing pipe, rights-of-way, and any equipment, facility, or building used or intended for use in the transportation of hazardous liquids but "rights-of-way" as used in this chapter does not authorize the Secretary to prescribe the location or the routing of any pipeline facility;

(5) "interstate pipeline facilities" means the pipeline facilities used in the transportation of hazardous liquids in interstate or foreign commerce;

(6) "intrastate pipeline facilities" means pipeline facilities which are not interstate pipeline facilities;

(7) "interstate or foreign commerce" means commerce between any point in a State and any point outside thereof, or between points within the same State but through any place outside thereof;

(8) "State" includes each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico;

(9) "municipality" means a city, county, or other political subdivision of a State;

(10) "national organization of State commissions" means the national organization of the State commissions referred to in subchapter III of chapter 103 of this title; and

(11) "Secretary" means the Secretary of Transportation.

(Pub. L. 96-129, title II, § 202, Nov. 30, 1979, 93 Stat. 1003.)

REFERENCES IN TEXT

This chapter, referred to in provision preceding par. (1) and in par. (4), in the original read "this title", meaning title II of Pub. L. 96-129, Nov. 30, 1979, 93 Stat. 1003, known as the Hazardous Liquid Pipeline Safety Act of 1979, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

EFFECTIVE DATE

Section 217 of title II of Pub. L. 96-129 provided that: "The provisions of this title [see Short Title note below] shall take effect on the date of enactment [Nov. 30, 1979]."

SHORT TITLE

Section 201 of title II of Pub. L. 96-129 provided that: "This title [which enacted this chapter, amended section 1811 of this title, repealed sections 831 to 835 of Title 18, Crimes and Criminal Procedure, and enacted provisions set out as notes under this section and section 831 of Title 18] may be cited as the 'Hazardous Liquid Pipeline Safety Act of 1979'."

§ 2002. Regulations governing Federal safety standards for the transportation of hazardous liquids and pipeline facilities

(a) Authority of Secretary

The Secretary shall, by regulation, establish minimum Federal safety standards for the

transportation of hazardous liquids and pipeline facilities. The standards shall apply to each person who engages in the transportation of hazardous liquids or who owns or operates pipeline facilities. The standards shall be practicable and designed to meet the need for safe transportation of hazardous liquids.

(b) Factors considered

In prescribing standards under this section, the Secretary shall consider—

(1) relevant available pipeline data;

(2) whether the standards are appropriate for the particular type of pipeline transportation or facility;

(3) the reasonableness of any proposed standards; and

(4) the extent to which the standards will contribute to public safety.

(c) Application of standards to design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and management of pipeline facilities

Standards under this section may apply to the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities. Any standard issued under this section affecting the design, installation, construction, initial inspection, and initial testing shall not be applicable to pipeline facilities in existence on the date such standard is adopted.

(d) Adoption of additional or more stringent safety standards

Any State agency may adopt additional or more stringent safety standards for intrastate pipeline facilities and the transportation of hazardous liquids associated with such facilities, if such standards are compatible with the Federal standards issued under this chapter. No State agency may adopt or continue in force any safety standards applicable to interstate pipeline facilities or the transportation of hazardous liquids associated with such facilities.

(e) Participation in public safety programs and establishment of damage prevention programs

The Secretary may provide that the Federal minimum safety standards established under this section include a requirement that any operator of pipeline facilities—

(1) participate in any public safety program—

(A) which provides for notice to pipeline facility operators of proposed demolition, excavation, tunneling, or construction near or affecting such facility;

(B) which requires such operators to identify specific pipeline facilities which may be affected by the proposed demolition, excavation, tunneling, or construction, for the purpose of preventing damage to such facilities; and

(C) which the Secretary determines is being carried out in a manner adequate to assure protection against the hazards to that operator's pipeline facilities created by such demolition, excavation, tunneling, or construction; or

(2) establish and carry out a damage prevention program which provides services to the public with respect to that operator's pipeline facilities which are comparable to those which would be available to the public under a program described in paragraph (1).

(f) Effective date of standards

Any standards prescribed under this section, and amendments thereto, shall become effective thirty days after the date of issuance of such standards unless the Secretary, for good cause recited, determines an earlier or later effective date is required as a result of the period reasonably necessary for compliance and such date is specified in the regulation establishing or amending such standard.

(g) Administrative procedure

The provisions of subchapter II of chapter 5 of title 5 shall apply to all actions establishing, amending, revoking, or directing or waiving compliance with, any standard established under this Act. The Secretary shall afford interested persons an opportunity to participate fully in the establishment of such safety standards through submission of written data, views, or arguments with opportunity to present oral testimony and argument.

(h) Waiver of compliance with standards

Upon application by any person engaged in the transportation of hazardous liquids or the operation of pipeline facilities, the Secretary may, by order, after notice and opportunity for hearing and under such terms and conditions and to such extent as he deems appropriate, waive in whole or in part compliance with any standard established under this chapter, if he determines that a waiver of compliance with such standard is not inconsistent with pipeline safety. The Secretary shall state his reasons for any such waiver. A State agency, with respect to which there is in effect a certification pursuant to section 2004(a) of this title or an agreement pursuant to section 2004(b) of this title, may waive compliance with a safety standard in the same manner and to the same extent as the Secretary, provided such State agency gives the Secretary written notice at least sixty days prior to the effective date of the waiver. If, before the effective date of a waiver to be granted by a State agency, the Secretary objects in writing to the granting of the waiver, any State agency action granting the waiver will be stayed. After notifying such State agency of his objection, the Secretary shall afford such agency a prompt opportunity to present its request for waiver, with opportunity for hearing, and the Secretary shall determine finally whether the requested waiver may be granted.

(Pub. L. 96–129, title II, § 203, Nov. 30, 1979, 93 Stat. 1004.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (d) and (h), in the original read "this title", meaning title II of Pub. L. 96–129, Nov. 30, 1979, 93 Stat. 1003, known as the Hazardous Liquid Pipeline Safety Act of 1979 which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title

note set out under section 2001 of this title and Tables.

This Act, referred to in subsec. (g), is Pub. L. 96-129, Nov. 30, 1979, 93 Stat. 989, known as the Pipeline Safety Act of 1979, which enacted this chapter and sections 1674a, 1674b, 1679a, and 1679b of this title, amended sections 1671 to 1674, 1675 to 1677, 1679a, 1680 to 1684, and 1811 of this title, repealed sections 1678 and 1679 of this title and sections 831 to 835 of Title 18, Crimes and Criminal Procedure, and enacted provisions set out as notes under sections 1671, 1672, 1682, and 2001 of this title and section 831 of Title 18. For complete classification of this Act to the Code, see Short Title note set out under section 1671 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2005, 2012 of this title.

§ 2003. Technical Hazardous-Liquid Pipeline Safety Standards Committee

(a) Establishment; appointment of members

Not later than 12 months after November 30, 1979, the Secretary shall establish a Technical Hazardous-Liquid Pipeline Safety Standards Committee and appoint the initial members of the Committee. The Committee shall be appointed by the Secretary, after consultation with public and private agencies concerned with the technical aspect of the transportation of hazardous liquids or the operation of pipeline facilities, and shall be composed of fifteen members each of whom shall be experienced in the safety regulation of the transportation of hazardous liquids and of pipeline facilities or technically qualified by training, experience, or knowledge in one or more fields of engineering applied in the transportation of hazardous liquids or the operation of pipeline facilities to evaluate pipeline safety standards, as follows:

(1) five members shall be selected from governmental agencies, including State and Federal Governments, two of whom, after consultation with representatives of the national organization of State commissions, shall be State commissioners;

(2) four members shall be selected from the hazardous liquids industry after consultation with industry representatives, not less than three of whom shall be currently engaged in the active operation of pipeline facilities; and

(3) six members shall be selected from the general public.

(b) Submittal of proposed standards or amendments thereto to Committee; preparation of report by Committee; prescription of final standards by Secretary; publication; meetings

After the Committee has been established and its members appointed, the Secretary shall submit to the Committee any proposed standard under this chapter, or any proposed amendment to a standard under this chapter, for its consideration. Within 90 days after receipt by the Committee of any proposed standard or amendment, the Committee shall prepare a report on the technical feasibility, reasonableness, and practicability of such standard or amendment. The Secretary may prescribe a final standard or a final amendment to a standard at any time after the 90th day after its submission to the Committee, whether or not the Committee has reported on such standard or amendment. Each report by the Committee, including any minority views, shall be published by the Secretary and, if timely made, form a part of the proceedings for the promulgation of standards. In the event that the Secretary rejects the conclusions of the majority of the Committee, he shall not be bound by such conclusions but shall publish his reasons for rejection thereof. The Committee may propose safety standards for pipeline facilities and the transportation of hazardous liquids to the Secretary for his consideration. The Committee shall meet with the Secretary (or his designee) not less frequently than once every 6 months. All proceedings of the Committee shall be recorded and the record of each proceeding shall be available for public inspection.

(c) Compensation and travel expense

Members of the Committee other than Federal employees may be compensated at a rate to be fixed by the Secretary at not to exceed the daily equivalent of the maximum annual rate of basic pay then currently payable under the General Schedule under section 5332 of title 5 for each day (including traveltime) when engaged in the actual duties of the Committee. All members, while away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5 for persons in the Government service employed intermittently. Payments under this section shall not render members of the Committee employees or officials of the United States for any purpose.

(Pub. L. 96-129, title II, § 204, Nov. 30, 1979, 93 Stat. 1005.)

§ 2004. State certification and agreements

(a) Report to Secretary by State agency; annual certification

Except for section 2014 of this title and except as otherwise provided in this section, the authority of the Secretary under this Act to prescribe safety standards and enforce compliance with such standards shall not apply to intrastate pipeline facilities or the transportation of hazardous liquids associated with those facilities, when the safety standards and practices applicable to same are regulated by a State agency which submits to the Secretary an annual certification that such State agency—

(1) has regulatory jurisdiction over the safety standards and practices of intrastate pipeline facilities and the transportation of hazardous liquids associated with those facilities;

(2) has adopted, as of the date of the certification, each Federal safety standard established under this chapter which is applicable to intrastate pipeline facilities and the transportation of hazardous liquids associated with those facilities or, with respect to each such Federal safety standard established within 120 days before the date of certification, is taking steps pursuant to State law to adopt such standard;

(3) is enforcing each such standard;

(4) is encouraging and promoting programs designed to prevent damage to pipeline facilities as a consequence of demolition, excavation, tunneling, or construction activity; and

(5) has the authority to require record maintenance, reporting, and inspection substantially the same as are provided under section 2010 of this title and the filing for approval of plans of inspection and maintenance described in section 2009 of this title and that the law of the State makes provision for the enforcement of the safety standards of such State agency by way of injunctive and monetary sanctions substantially the same as are provided under sections 2007 (other than subsection (a)(2) thereof) and 2008 of this title.

Each annual certification shall include a report, in such form as the Secretary may by regulation provide, showing (i) name and address of each person subject to the safety jurisdiction of the State agency; (ii) all accidents or incidents reported during the preceding 12 months by each such person involving personal injury requiring hospitalization, fatality, or property damage exceeding $5,000 (whether or not sustained by a person subject to the safety jurisdiction of the State agency) and any other accident which the State agency considers significant, together with a summary of the State agency's investigation as to the cause and circumstances surrounding such accident or incident; (iii) the record maintenance, reporting, and inspection practiced by the State agency to enforce compliance with such Federal safety standards, including a detail of the number of inspections made of pipeline facilities by the State agency during the preceding 12 months; and (iv) such other information as the Secretary may require. The report included with the first annual certification need not show information unavailable at that time.

(b) Agreements with State agencies; notification to Secretary of violations of standards

With respect to any intrastate pipeline facilities or transportation of hazardous liquids associated with those facilities for which the Secretary does not receive an annual certification under subsection (a) of this section, the Secretary may, by agreement with a State agency authorize such agency to assume responsibility for, and carry out on behalf of the Secretary as it relates to those facilities or associated transportation, the necessary actions to—

(1) establish an adequate program for record maintenance, reporting, and inspection designed to assist compliance with Federal safety standards; and

(2) establish procedures for approval of plans for inspection and maintenance substantially the same as are required under section 2009 of this title.

Any agreement executed pursuant to this subsection shall require the State agency promptly to notify the Secretary of any violation or probable violation of a Federal safety standard which it discovers as a result of its program.

(c) Monitoring of State programs established by certification or agreement under this section

The Secretary may conduct whatever monitoring may be necessary of any State program established by certification or agreement under this section to assure that such programs are being carried out in compliance with such certification or agreement. State agencies shall cooperate fully in any monitoring of their programs under this subsection.

(d) Grants to aid State enforcement; withholding funds from State agency

(1) Except as otherwise provided in this section, if an application submitted not later than September 30 in any calendar year, the Secretary shall pay out of funds appropriated or otherwise made available up to 50 percent of the cost of the personnel, equipment, and activities of a State agency reasonably required during the following calendar year to carry out a safety program under a certification under subsection (a) of this section or an agreement under subsection (b) of this section; or to act as agent of the Secretary with respect to interstate pipeline facilities. The Secretary may, after notice and consultation with a State agency, withhold all or any part of the funds for a particular State agency if he determines that such State agency (A) is not satisfactorily carrying out a safety program under a certification under subsection (a) of this section or an agreement under subsection (b) of this section, or (B) is not satisfactorily acting as agent of the Secretary with respect to interstate pipeline facilities. No such payment may be made unless the State agency making application under this subsection gives assurances satisfactory to the Secretary that the State agency will provide the remaining cost of such a safety program and that the aggregate expenditures of funds of the State, exclusive of Federal grants, for hazardous liquid pipeline safety programs will be maintained at a level which does not fall below the average level of such expenditures for the last 2 fiscal years preceding November 30, 1979.

(2) Funds authorized to be appropriated by section 2013 of this title shall be allocated among the several States for payments to aid in the conduct of pipeline safety programs in accordance with paragraph (1) of this subsection.

(3) Payments under this section may be made in installments, in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

(4) The Secretary may, by regulation, provide for the form and manner of filing of applications under this section, and for such reporting and fiscal procedures as he deems necessary to assure the proper accounting for Federal funds.

(e) Recertification

A certification which is in effect under subsection (a) of this section shall not apply with respect to any new or amended Federal safety standard established for intrastate pipeline facilities or transportation of hazardous liquids associated with those facilities pursuant to this chapter after the date of such certification. The provisions of this chapter shall apply to any such new or amended Federal safety standard until the State agency has adopted such standard and has submitted an appropriate certification in accordance with provisions of subsection (a) of this section.

(f) Rejection of certification or other enforcement action

If after receipt of annual certification under subsection (a) of this section, the Secretary determines that the State agency is not satisfactorily enforcing compliance with Federal safety standards, he may, on reasonable notice and after opportunity for hearing, reject the certification or take such other action as he deems appropriate to achieve adequate enforcement including the assertion of Federal jurisdiction. When such notice is given by the Secretary, the burden of proof shall be upon the State agency to show that it is satisfactorily enforcing compliance with Federal safety standards.

(g) Termination of agreement

Any agreement under subsection (b) of this section may be terminated by the Secretary if, after notice and opportunity for a hearing, he finds that the State agency has failed to comply with any provision of such agreement. Such finding and termination shall be published in the Federal Register and shall become effective no sooner than 15 days after the date of publication.

(Pub. L. 96-129, title II, § 205, Nov. 30, 1979, 93 Stat. 1006.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 96-129, Nov. 30, 1979, 93 Stat. 989, known as the Pipeline Safety Act of 1979, which enacted this chapter and sections 1674a, 1674b, 1679a, and 1679b of this title, amended sections 1671 to 1674, 1675 to 1677, 1679a, 1680 to 1684, and 1811 of this title, repealed sections 1678 and 1679 of this title and sections 831 to 835 of Title 18, Crimes and Criminal Procedure, and enacted provisions set out as notes under sections 1671, 1672, 1682, and 2001 of this title and section 831 of Title 18. For complete classification of this Act to the Code, see Short Title note set out under section 1671 of this title and Tables.

This chapter, referred to in subsecs. (a)(2) and (e), in the original read "this title", meaning title II of Pub. L. 96-129, Nov. 30, 1979, 93 Stat. 1003, known as the Hazardous Liquid Pipeline Safety Act of 1979, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2002, 2009, 2012, 2013, 2014 of this title.

§ 2005. Judicial review

(a) Person aggrieved; venue

Any person who is or will be adversely affected or aggrieved by any regulation issued under this chapter or any order issued relating to an application for waiver under section 2002(h) of this title may at any time prior to the 60th day after such regulation or order is issued file a petition for a judicial review with the United States Court of Appeals for the District of Columbia or for the circuit wherein such petitioner is located or has his principal place of business. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose.

(b) Jurisdiction

Upon the filing of the petition referred to in subsection (a) of this section, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5 and to grant appropriate relief as provided in such chapter.

(c) Appeal

The judgment of the court affirming or setting aside, in whole or in part, any such regulation or order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(d) Successors in office

Any action instituted under this section shall survive, notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office.

(e) Remedies

The remedies provided for in this section shall be in addition to and not in substitution for any other remedies provided by law.

(Pub. L. 96-129, title II, § 206, Nov. 30, 1979, 93 Stat. 1009.)

§ 2006. Compliance

(a) Requirements respecting safety standards, inspection and maintenance plans, and access to information

Each person who engages in the transportation of hazardous liquids or who owns or operates pipeline facilities shall—

(1) at all times after the date any applicable safety standard established under this chapter takes effect comply with the requirements of such standard;

(2) establish and maintain a plan of inspection and maintenance required by section 2009 of this title and comply with such plan; and

(3) permit access to or copying of records, and make reports or provide information, and permit entry or inspection, as required under section 2010 of this title.

(b) Issuance of orders

(1) The Secretary may issue orders directing compliance with this Act or any regulation issued under this Act. Any such order shall clearly set forth the particular actions required of the person to whom the order is issued.

(2) The district courts of the United States shall have jurisdiction, upon petition by the Attorney General, to enforce any such order by appropriate means.

(c) Tort liability

Nothing in this chapter shall affect the common law or statutory liability of any person.

(Pub. L. 96-129, title II, § 207, Nov. 30, 1979, 93 Stat. 1009.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (c), in the original read "this title", meaning title II of Pub. L. 96-129, Nov. 30, 1979, 93 Stat. 1003, known as the

Hazardous Liquid Pipeline Safety Act of 1979, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of this title and Tables.

This Act, referred to in subsec. (b)(1), is Pub. L. 96-129, Nov. 30, 1979, 93 Stat. 989, known as the Pipeline Safety Act of 1979, which enacted this chapter and sections 1674a, 1674b, 1679a, and 1679b of this title, amended sections 1671 to 1674, 1675 to 1677, 1679a, 1680 to 1684, and 1811 of this title, repealed sections 1678 and 1679 of this title and sections 831 to 835 of Title 18, Crimes and Criminal Procedure, and enacted provisions set out as notes under sections 1671, 1672, 1682, and 2001 of this title and section 831 of Title 18. For complete classification of this Act to the Code, see Short Title note set out under section 1671 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2007 of this title.

§ 2007. Penalties

(a) Civil penalties

(1) Any person who is determined by the Secretary to have violated any provisions of section 2006(a) of this title or any regulation or order issued under this chapter, including any order issued under section 2006(b) or 2008(b) of this title, shall be liable to the United States for a civil penalty of not more than $1,000 for each violation for each day that violation persists, except that the maximum civil penalty shall not exceed $200,000 for any related series of violations.

(2) The amount of the penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, any history of prior violations, the effect on ability to continue to do business, any good faith in attempting to achieve compliance, ability to pay the penalty, and such other matters as justice may require.

(b) Action by Attorney General to recover civil penalty

A civil penalty assessed under subsection (a) of this section may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, prior to referral to the Attorney General, it may be compromised by the Secretary. The amount of the penalty, when finally determined (or agreed upon in compromise), may be deducted from any sums owed by the United States to the person charged. All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

(c) Criminal penalties

(1) Any person who willfully and knowingly violates section 2006(a) of this title or a regulation or order issued under this chapter, including any order issued under section 2006(b) or 2008(b) of this title, shall, upon conviction, be subject, for each offense, to a fine of not more than $25,000, imprisonment for a term not to exceed 5 years, or both.

(2) Any person who willfully and knowingly injures or destroys, or attempts to injure or destroy, any interstate pipeline facility shall, upon conviction, be subject, for each offense, to a fine of not more than $25,000, imprisonment for a term not to exceed 15 years, or both.

(d) Violations based on same act

Nothing in this chapter shall be construed to authorize the imposition of penalties for the violation of any regulation and the violation of any order under section 2006(b) or 2008(b) of this title if both violations are based on the same act.

(Pub. L. 96-129, title II, § 208, Nov. 30, 1979, 93 Stat. 1009.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2004 of this title.

§ 2008. Specific relief

(a)(1) The Attorney General, at the request of the Secretary, may bring an action in an appropriate district court of the United States for equitable relief to redress or restrain a violation by any person of a provision of this chapter or a regulation issued under this chapter. Such district courts shall have jurisdiction to determine such actions and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

(2) In any proceeding for criminal contempt for violation of a mandatory or prohibitive injunction issued under this subsection, which violation also constitutes a violation of this Act, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(b)(1) If the Secretary finds, after reasonable notice and an opportunity for hearing, that any pipeline facility is hazardous to life or property, he shall, by order, require the person operating the facility to take necessary corrective action. Such corrective action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other action, as appropriate.

(2) The Secretary may find a pipeline facility to be hazardous under paragraph (1)—

(A) if under the facts and circumstances he determines the particular facility is hazardous to life or property, or

(B) if the pipeline facility or a component thereof has been constructed or operated with any equipment, material, or technique which he determines is hazardous to life or property, unless the operator involved demonstrates to the satisfaction of the Secretary that under the particular facts and circumstances involved such equipment, material, or technique is not hazardous to life or property.

(3) In making a determination under paragraph (2), the Secretary shall consider, if relevant—

(A) the characteristics of the pipe and other equipment used in the pipeline facility involved, including its age, manufacturer, physical properties (including its resistance to corrosion and deterioration), and the method of its manufacture, construction, or assembly;

(B) the nature of the materials transported by such facility (including their corrosive and deteriorative qualities), the sequence in which such materials are transported, and the pressure required for such transportation;

(C) the aspects of the areas in which the pipeline facility is located, in particular the climatic and geologic conditions (including soil characteristics) associated with such areas, and the population density and population and growth patterns of such areas;

(D) any recommendation of the National Transportation Safety Board issued in connection with any investigation conducted by the Board under other provisions of law; and

(E) such other factors as the Secretary may consider appropriate.

(4) The district courts of the United States shall have jurisdiction, upon petition by the Attorney General, to enforce orders issued under this subsection by appropriate means.

(5) The Secretary may waive the requirements for notice and hearing under this subsection and provide for expeditious issuance of an order under this subsection in any case in which he determines that the failure to do so would result in the likelihood of serious harm to life or property. However, the Secretary shall include in such an order an opportunity for hearing as soon as practicable after issuance of an order.

(Pub. L. 96-129, title II, § 209, Nov. 30, 1979, 93 Stat. 1010.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), in the original read "this title", meaning title II of Pub. L. 96-129, Nov. 30, 1979, 93 Stat. 1003, known as the Hazardous Liquid Pipeline Safety Act of 1979, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of this title and Tables.

This Act, referred to in subsec. (a)(2), is Pub. L. 96-129, Nov. 30, 1979, 93 Stat. 989, known as the Pipeline Safety Act of 1979, which enacted this chapter and sections 1674a, 1674b, 1679a, and 1679b of this title, amended sections 1671 to 1674, 1675 to 1677, 1679a, 1680 to 1684, and 1811 of this title, repealed sections 1678 and 1679 of this title and sections 831 to 835 of Title 18, Crimes and Criminal Procedure, and enacted provisions set out as notes under sections 1671, 1672, 1682, and 2001 of this title and section 831 of Title 18. For complete classification of this Act to the Code, see Short Title note set out under section 1671 of this title and Tables.

The Federal Rules of Criminal Procedure, referred to in subsec. (a)(2), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2004, 2007 of this title.

§ 2009. Inspection and maintenance plan

(a) Each person who engages in the transportation of hazardous liquids or who owns or operates pipeline facilities shall prepare, maintain at such office or offices of that person as the Secretary determines appropriate, and carry out a current written plan for inspection and maintenance of each facility used in that transportation and owned or operated by that person in accordance with regulations prescribed by the Secretary or, where a certification or agreement pursuant to section 2004 of this title is in effect, by the appropriate State agency. The Secretary may, by regulation, also require persons who engage in the transportation of hazardous liquids or who own or operate pipeline facilities subject to the provisions of this chapter to file such plans for approval. A plan required by this subsection shall be practicable and designed to meet the need for pipeline safety and shall be made available to the Secretary or appropriate State agency upon request pursuant to section 2010 of this title.

(b) If the Secretary or appropriate State agency finds that a plan required under this section is inadequate to achieve safe operation of pipeline facilities, the Secretary or appropriate State agency shall, after notice and opportunity for a hearing, require the plan to be revised. In determining the adequacy of a plan filed under this section, the Secretary or appropriate State agency shall consider—

(1) relevant available pipeline safety data;

(2) whether the plan is appropriate for the particular type of pipeline transportation or facility;

(3) the reasonableness of the plan; and

(4) the extent to which such plan will contribute to public safety.

(Pub. L. 96-129, title II, § 210, Nov. 30, 1979, 93 Stat. 1011.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2004, 2006 of this title.

§ 2010. Powers and duties of Secretary

(a) General authority

The Secretary may, to the extent necessary to carry out his responsibilities under this chapter, conduct investigations, make reports, issue subpenas, conduct hearings, require the production of relevant documents and records, take depositions, and conduct, directly or, by contract, or otherwise, research, testing, development, demonstration, and training activities; however, before the Secretary may exercise authority under this section to require testing of portions of pipeline facilities subject to the provisions of this chapter which have been involved in or affected by an accident, he shall make every effort to negotiate a mutually acceptable plan with the owner of such facilities and, where appropriate, the National Transportation Safety Board for performing such testing.

(b) Records and reports of persons engaged in transportation of hazardous liquids or who own or operate pipeline facilities

Each person who engages in the transportation of hazardous liquids or who owns or operates pipeline facilities shall establish and main-

tain such records, make such reports, and provide such information as the Secretary may reasonably require, and shall submit such reports and shall make such records and information available as the Secretary may request, to enable him to determine whether such person has acted or is acting in compliance with this chapter and the standards or orders issued under this chapter.

(c) Inspection of records and property

Officers, employees, or agents authorized by the Secretary, upon presenting appropriate credentials to the person in charge, are authorized to enter upon, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent such records and properties are relevant to determining whether such persons have acted or are acting in compliance with this chapter and the standards or orders issued under this chapter.

(d) Availability of accident reports and research and demonstration project reports

Accident reports made by any officer, employee, or agent of the Department of Transportation shall be available for use in any civil, criminal, or other judicial proceeding arising out of such accident. Any such officer, employee, or agent may be required to testify in such proceedings as to the facts developed in such investigations. Any such report shall be made available to the public in a manner which need not identify individuals. All reports on research projects, demonstration projects, and other related activities shall be public information.

(e) Disclosure of information relating to trade secrets

All information reported to or otherwise obtained by the Secretary or his representative pursuant to subsection (a), (b), or (c) of this section which information contains or relates to a trade secret referred to in section 1905 of title 18 shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this chapter or when relevant in any proceeding under this chapter. Nothing in this section shall authorize the withholding of information by the Secretary or any officer, employee, or agent under his control, from the duly authorized committees of the Congress.

(Pub. L. 96–129, title II, § 211, Nov. 30, 1979, 93 Stat. 1012.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2004, 2006, 2009 of this title.

§ 2011. Administration

(a) Information furnished to Federal Energy Regulatory Commission

Upon request, the Secretary shall furnish to the Federal Energy Regulatory Commission or any appropriate State agency, with respect to matters under their jurisdiction, any information he has concerning the safety of any materials, operations, devices, or processes relating to the transportation of hazardous liquids or the operation of pipeline facilities.

(b) Cooperation with other agencies

The Secretary is authorized to advise, assist, and cooperate with other Federal departments and agencies and State and other interested public and private agencies and persons, in the planning and development of (1) Federal safety standards relating to hazardous liquids, and (2) methods for inspecting and testing to determine compliance with Federal safety standards relating to hazardous liquids.

(c) Consultation with other agencies

The Secretary is authorized to consult with, and make recommendations to, other Federal departments and agencies, State and local governments, and other public and private agencies or persons, for the purpose of developing and encouraging activities, including the enactment of legislation, to assist in the implementation of this chapter and to improve State and local pipeline safety programs relating to hazardous liquids.

(Pub. L. 96–129, title II, § 212, Nov. 30, 1979, 93 Stat. 1013.)

§ 2012. Annual report

(a) Submittal to President; transmittal to Congress; contents

The Secretary shall prepare and submit to the President for transmittal to the Congress on June 15 of each year a comprehensive report on the administration of this chapter for the preceding calendar year. Such report shall include—

(1) a thorough compilation of the leak repairs, accidents, and casualties occurring in such year with a statement of cause whenever investigated and determined by the National Transportation Safety Board;

(2) a list of Federal hazardous liquid pipeline safety standards established or in effect in such year with identification of standards newly established during such year;

(3) a summary of the reasons for each waiver granted under section 2002(h) of this title during such year;

(4) an evaluation of the degree of observance of applicable safety standards for the transportation of hazardous liquids and pipeline facilities including a list of enforcement actions, and compromises of alleged violations by location and company name;

(5) a summary of outstanding problems confronting the administration of this chapter in order of priority;

(6) an analysis and evaluation of research activities, including the policy implications thereof, completed as a result of Government and private sponsorship and technological progress for safety achieved during such year;

(7) a list, with a brief statement of the issues, of completed or pending judicial actions under the chapter;

(8) the extent to which technical information was disseminated to the scientific community and consumer-oriented information was made available to the public;

(9) a compilation of—

(A) certifications filed by State agencies (including municipalities) under section

2004(a) of this title which were in effect during the preceding calendar year, and

(B) certifications filed under section 2004(a) of this title which were rejected by the Secretary during the preceding calendar year, together with a summary of the reasons for such rejection; and

(10) a compilation of—

(A) agreements entered into with State agencies (including municipalities) under section 2004(b) of this title which were in effect during the preceding calendar year, and

(B) agreements entered into under section 2004(b) of this title which were terminated by the Secretary during the preceding calendar year, together with a summary of the reasons for each such termination.

(11) a description of the number and qualifications of State pipeline safety inspectors in each State for which a certification or agreement is in effect under section 2004 of this title, together with the number of such pipeline inspectors (and their qualifications) which the Secretary recommends for that State.

(b) Recommendations for additional legislation

The report required by subsection (a) of this section shall contain such recommendations for additional legislation as the Secretary deems necessary to promote cooperation among the several States in the improvement of hazardous liquid pipeline safety programs.

(c) Report satisfying requirement of this section and section 1683 of this title

The Secretary is authorized to submit one annual report in satisfaction of the report requirements of this section and of section 1683 of this title.

(Pub. L. 96-129, title II, § 213, Nov. 30, 1979, 93 Stat. 1013.)

§ 2013. Authorization of appropriations

(a) For the purpose of carrying out the provisions of this chapter (other than provisions for which funds are authorized to be appropriated under subsection (b) of this section), there are authorized to be appropriated—

(1) $1,800,000, for the fiscal year ending September 30, 1980; and

(2) $2,100,000, for the fiscal year ending September 30, 1981.

(b) For the purpose of carrying out the Federal grants-in-aid provisions of section 2004 of this title, there are authorized to be appropriated—

(1) $500,000, for the fiscal year ending September 30, 1980; and

(2) $535,000, for the fiscal year ending September 30, 1981.

(Pub. L. 96-129, title II, § 214, Nov. 30, 1979, 93 Stat. 1014.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2004 of this title.

§ 2014. Citizens civil action

(a) Injunctive relief

Except as provided in subsection (b) of this section, any person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, against any other person (including any State, municipality, or other governmental entity to the extent permitted by the eleventh amendment to the Constitution, and the United States) who is alleged to be in violation of this chapter or of any order or regulation issued under this chapter. The district courts of the United States shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) Restrictions

No civil action may be commenced under subsection (a) of this section with respect to any alleged violation of this chapter or any order or regulation issued under this chapter—

(1) prior to the expiration of 60 days after the plaintiff has given notice of such alleged violation to the Secretary (or to the applicable State agency in the case of a State which has been certified under section 2004(a) of this title and in which the violation is alleged to have occurred), and to any person who is alleged to have committed such violation; or

(2) if the Secretary (or such State agency) has commenced and is diligently pursuing administrative proceedings or the Attorney General of the United States (or the chief law enforcement officer of such State) has commenced and is diligently pursuing judicial proceedings with respect to such alleged violation.

Notice under this subsection shall be given in such manner as the Secretary shall prescribe by regulation.

(c) Intervention by Attorney General

In any action under subsection (a) of this section, the Secretary (with the concurrence of the Attorney General) or the Attorney General may intervene as a matter of right.

(d) Effect on rights under any statute or at common law

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or at common law to seek enforcement of this chapter or any order or regulation under this chapter or to seek any other relief.

(e) Costs and attorney's fees

In any action under this section the court may, in the interest of justice, award the costs of suit, including reasonable attorney's fees and reasonable expert witnesses fees, to a prevailing plaintiff. Such court may, in the interest of justice, award such costs to a prevailing defendant whenever such action is unreasonable, frivolous, or meritless. For purposes of this subsection, a reasonable attorney's fee is a fee (1) which is based upon (A) the actual time expended by an attorney in providing advice and other legal services in connection with repre-

senting a person in an action brought under this section, and (B) such reasonable expenses as may be incurred by the attorney in the provision of such services, and (2) which is computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.

(f) Violations of State safety standards

For purposes of this section, a violation of any safety standard or practice of any State shall be deemed to be a violation of this chapter or of any order or regulation under this chapter only to the extent that such standard or practice is not more stringent than the comparable Federal safety standard.

(Pub. L. 96-129, title II, § 215, Nov. 30, 1979, 93 Stat. 1014.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2004 of this title.

SUBTITLE IV—INTERSTATE COMMERCE

Chap.		Sec.
101.	General Provisions	10101
103.	Interstate Commerce Commission	10301
105.	Jurisdiction	10501
107.	Rates, Tariffs, and Valuations	10701
109.	Licensing	10901
111.	Operations of Carriers	11101
113.	Finance	11301
115.	Federal-State Relations	11501
117.	Enforcement: Investigations, Rights, and Remedies	11701
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ENACTING CLAUSE

Section 1 of Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1337, provided in part: "That certain general and permanent laws of the United States, related to transportation, are revised, codified, and enacted as title 49, United States Code, 'Transportation'."

LEGISLATIVE PURPOSE AND CONSTRUCTION

Section 3 of Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1466, provided that:

"(a) Sections 1 and 2 of this Act restate, without substantive change, laws enacted before May 16, 1978, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after May 15, 1978, that are inconsistent with this Act are considered as superseding it to the extent of the inconsistency.

"(b) A reference to a law replaced by sections 1 and 2 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

"(c) An order, rule, or regulation in effect under a law replaced by sections 1 and 2 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

"(d) An action taken or an offense committed under a law replaced by sections 1 and 2 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

"(e) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline thereof.

"(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications."

REPEALS

Section 4(a) of Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1466, provided that: "The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal."

Section 4(b) of Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1466, repealed the sections or parts thereof of the Statutes at Large codified in the Interstate Commerce Act and certain other provisions relating to the applicability of such Act, except as provided in section 4(c) of Pub. L. 95-473 and except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before Oct. 17, 1978.

SAVINGS PROVISION

Section 4(c) of Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1470, provided that:

"The laws specified in the schedule in subsection (b) of this section, as they existed on October 1, 1977, are not repealed to the extent—

"(1) those laws (A) vested functions in the Interstate Commerce Commission, or in the chairman or members of the Commission, related to the transportation of oil by pipeline, and (B) vested functions and authority in the Commission, or an officer or component of the Commission, related to the establishment of rates or charges for the transportation of oil by pipeline or the valuation of any such pipeline; and

"(2) those functions and authority were transferred by sections 306 and 402(b) of the Department of Energy Organization Act (91 Stat. 581, 584, 42 U.S.C. 7155, 7172(b))."

EFFECTIVE DATE OF CERTAIN REPEALS

Section 4(d) of Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1470, provided that: "The repeals, by subsection (b) of this section, of section 1(a)(25), (26) of the Act of July 3, 1952, chapter 570, the Act of June 30, 1953, chapter 165, and the Act of July 31, 1953, chapter [public law] 169, are effective on September 14, 1978."

SUBTITLE REFERRED TO IN OTHER SECTIONS

This subtitle is referred to in sections 1382, 1483, 1655 of this title; title 7 sections 225, 2044; title 11 sections 1166, 1169; title 15 sections 19, 21, 26, 44, 1681s, 1691c; title 18 section 2341; title 28 sections 2321, 2323; title 33 section 1507; title 42 sections 4916, 4917, 7155; title 43 section 975; title 45 sections 22, 65, 151, 157, 741, 744, 791, 793, 854, 884, 912; title 47 section 601; title 48 section 751.

CHAPTER 101—GENERAL PROVISIONS

Sec.
10101. Transportation policy.
10102. Definitions.
10103. Remedies as cumulative.

§ 10101. Transportation policy

(a) To ensure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States, including the United States Postal Service and national defense, it is the policy of the United States Government to provide for the impartial regulation of the modes of transportation subject to this subtitle, and in regulating those modes—

(1) to recognize and preserve the inherent advantage of each mode of transportation;

(2) to promote safe, adequate, economical, and efficient transportation;

(3) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

(4) to encourage the establishment and maintenance of reasonable rates for transportation without unreasonable discrimination or unfair or destructive competitive practices;

(5) to cooperate with each State and the officials of each State on transportation matters; and

(6) to encourage fair wages and working conditions in the transportation industry.

(b) This subtitle shall be administered and enforced to carry out the policy of this section.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1337.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10101	49: 1 (note).	Feb. 4, 1887, ch. 104, 24 Stat. 379; added Sept. 18, 1940, ch. 722, § 1 (2d unnumbered par.), 54 Stat. 899.

In the introductory matter before clause (1) of subsection (a), the words "To ensure" are substituted for "all to the end of" for clarity. The words "by water, highway, and rail, as well as other means" are omitted as unnecessary. The words "that meets" are substituted for "adequate to meet" for clarity. The words "transportation needs of the United States" are substituted for "the needs of the commerce of the United States" for clarity. The words "including the" are inserted for clarity. The words "United States Postal Service" are substituted for "Postal Service" to reflect the complete name of the Government agency. The words "it is the policy of the United States Government" are substituted for "It is hereby declared to be the national transportation policy of the Congress" for clarity since the policy has been enacted into law. The words "fair and" are omitted to eliminate redundancy. The words "subject to this subtitle" are substituted for "subject to the provisions of this act" for clarity and to conform to the revised title.

In subsection (a)(2), the words "efficient transportation" are substituted for "efficient service" for clarity and consistency in view of the definition of "transportation" in section 10102 of the revised title.

In subsection (a)(3), the words "encourage sound" are substituted for "foster sound" for clarity. The words "including sound economic conditions among carriers" are substituted for "and among the several carriers" for clarity.

In subsection (a)(4), the word "rates" is substituted for "charges" for clarity and consistency. The words "unreasonable discrimination" are substituted for "unjust discriminations, undue preferences or advantages" for clarity, consistency, and to conform to modern usage. See the note after the revision note for subsection (b).

In subsection (a)(5), the words "officials of each State" are substituted for "duly authorized official thereof" for clarity.

In subsection (a)(6), the words "in the transportation industry" are inserted for clarity.

In subsection (b), the words "with a view" and "the above declaration" are omitted as unnecessary. The word "subtitle" is substituted for "Act" to conform to the revised title.

Clarification of use of "reasonable" and "discrimination"

Throughout the bill, the term "reasonable" is substituted for "just and reasonable" and "discrimination" is substituted for "preference", "prejudice", "advantage", and "disadvantage" for clarity, consistency, and to conform to modern usage. See *Missouri, Kansas & Texas Railway Co.* v. *Harriman*, 227 U.S. 657, 1913; *United States* v. *P. Koenig Coal Co.*, 270 U.S. 512, 1926; *Arizona Grocery Co.* v. *Atchison, Topeka & Santa Fe Railway Co.*, 284 U.S. 370, 1932; *Union Pacific R. Co.* v. *United States*, 313 U.S. 450, 1941; *Federal Power Commission* v. *Natural Gas Pipeline Co.*, 315 U.S. 575, 1942; *Federal Power Commission* v. *Hope Natural Gas Co.*, 320 U.S. 591, 1944; *United States ex rel. Morris* v. *Delaware, L. & W.R. Co.*, 40 F. 101, Cir. Ct. N.Y., 1889. The change does not affect the substantive law. The words for which the substitutions are made are used inconsistently throughout the Interstate Commerce Act and related laws and are often used in series with other synonymous words. As the editors of the U.S. Code Service point out in an explanatory note to section 2 of title 49:

Explanatory note.—In using the annotations following, it must be borne in mind that the words "unjust discrimination" [the term employed in this section] and "preference and prejudice" [the terms employed in § 3(1) of this title] have been used in innumerable instances by the courts and by the commission as interchangeable. The Elkins Act [§§ 41–43 of this title] employs the word "discrimination" without the qualifying adjective "unjust." It is impossible in the great majority of cases to determine from the opinions whether this section, or § 3(1) of this title, or the Elkins Act [§§ 41–43 of this title] was the basis of the decision, because of the use of the terms interchangeably, or the use of "unjust discrimination" as covering violations of § 3(1) of this title, or the omission to specify the particular provision of law under immediate consideration, or because both this section and § 3(1) of this title, may have been pleaded and referred to as the basis of the decision. There is some similar confusion in the cases between this section and the provisions of § 1(5) of this title, requiring all rates to be just and reasonable, and § 1(6) of this title, requiring just and reasonable classifications, and transportation regulations and practices.

While the amendments made to the Interstate Commerce Act by Public Law 94–210 continued the use of the multiple synonyms, that continuation is not significant since those amendments did not restate the entire act. Should a question ever arise concerning this change, section 3 of the bill would require the legal conclusion that no change in substance was intended. The following table identifies those sections of the Interstate Commerce Act that use the terms discussed in this note.

Interstate Commerce Act section	*Words used*
Before § 1	"reasonable charges", "unjust discriminations", "undue preferences or advantages", "unfair or destructive competitive practices".
1(4)	"reasonable through routes", "just and reasonable rates, fares, charges, and classifications", "reasonable facilities", "just, reasonable, and equitable divisions [of joint rates, fares, or charges]".
1(5)(a)	"unduly prefer or prejudice", "just and reasonable [charges]", "unjust and unreasonable charge".
1(5)(b)	"just and reasonable [rates]", "unjust or unreasonable [rates]".
1(6)	"just and reasonable classifications of property", "just and reasonable regulations and practices", "just and reasonable terms", "unjust and unreasonable classification, regulation, and practice".
1(9)	"without discrimination".
1(11)	"just and reasonable rules, regulations, and practices with respect to car service", "unjust and unreasonable".

Interstate Commerce Act section	*Words used*
1(12)	"just and reasonable distribution of cars", "just and reasonable ratings", "justness and reasonableness of, or discrimination or preference or prejudice or advantage or disadvantage in, the distribution of cars".
1(15)	"just and reasonable directions", "just and reasonable" terms of compensation.
1(16)(a)	"just and reasonable directions".
1(17)(a)	"just and reasonable freight and passenger service".
2	"unjust discrimination".
3(1)	"undue or unreasonable preference or advantage", "undue or unreasonable prejudice or disadvantage".
3(2)	"unjust discrimination".
3(4)	"reasonable, proper, and equal facilities for the interchange of traffic", "shall not discriminate in their rates, fares, and charges between connecting lines", "unduly prejudice".
3(5)	"just and reasonable" terms of compensation.
4(1)	"reasonably compensatory".
5(2)(b)	"just and reasonable" modifications.
10(1)	"unlawful discrimination in rates, fares, or charges".
10(4)	"discriminate unjustly", "unjust discrimination".
12(1)(b)	"undue burden" on a person, class of persons, or interstate or foreign commerce.
13(4)	"undue or unreasonable advantage, preference, or prejudice", "undue, unreasonable, or unjust discrimination against, or undue burden on, interstate or foreign commerce".
15(1)	"unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial", "just and reasonable . . . rate, fare, or charge", "just, fair, and reasonable [classification, regulation, or practice]".
15(6)(a)	"unjust, unreasonable, inequitable, or unduly preferential or prejudicial [division of joint rates, fares, or charges]", "just, reasonable, and equitable divisions".
15(7)	"lawfulness of such rate, fare, charge, classification, regulation, or practice", rates or charges "not justified", "just and reasonable".
15(8)(a)	"lawfulness" of such rate, fare, charge, classification, regulation, or practice.
15(8)(b)	rate "exceeds a just and reasonable level".
15(8)(d)	"unlawful" rate increase or decrease.
15(8)(e)	"lawful" rate, fare, or charge decrease.
15(8)(f)	"just and reasonable" changed rate, fare, charge, classification, rule, or regulation.
15(9)	"unreasonably high" rate, "lawfulness", "just or reasonable" maximum increased rate.
15(15)	"just and reasonable [charge and allowance]", "reasonable [maximum] charge".
15(19)	"unlawful [schedule]".
15a(2)	"just and reasonable rates".
15a(3)	"a reasonable minimum rate".
15a(4)	"fair, reasonable, and economic profit or return (or both)".
16(5)	"lawfulness of rates, fares, charges, classifications, or practices".
17(7)	"unjust or unwarranted" decision.
204(a)(1), (2)	"reasonable requirements" for service, transportation of baggage and express, uniform system of accounts, etc.
204(a)(3)	"reasonable requirements" to promote safety.
204(a)(4)	"reasonable requirements" for licensing brokers, etc.
204(b)	"just and reasonable classifications" of brokers and groups of carriers.
204a(5)	reparations are damages from charges that are "unjust and unreasonable, or unjustly discriminatory or unduly preferential or unduly prejudicial".
216(a)	"reasonable through routes", "just and reasonable . . . rates, fares, and charges", "just and reasonable regulations and practices", "just, reasonable, and equitable divisions [of rates, fares, and charges]".
216(b)	"just and reasonable rates, charges, and classifications", "just and reasonable regulations and practices".
216(c)	"reasonable through rates and joint rates, charges, and classifications", "just and reasonable regulations and practices", "just, reasonable, and equitable divisions", "unduly prefer or prejudice".
216(d)	"just and reasonable [charges]", "unjust and unreasonable charge", "undue or unreasonable preference or advantage", "unjust discrimination", "undue or unreasonable prejudice or disadvantage".
216(e)	"unjust or unreasonable [rate, fare, charge, classification, rule, regulation, or practice of a service]", unjustly discriminatory or unduly preferential or unduly prejudicial", "lawful rate, fare, or charge or the maximum or minimum rate, fare, or charge", "lawful classification, rule, regulation, or practice".
216(f)	division of joint rates, fares, and charges: "unjust, unreasonable, inequitable, or unduly preferential or prejudicial", "just, reasonable, and equitable divisions".
216(g)	"lawfulness of such rate, fare, or charge, or such rule, regulation, or practice", "proposed changed rate, fare, charge, classification, rule, regulation, or practice is just and reasonable".
216(h)	"justness and reasonableness of any rate, fare, or charge".
216(i)	"just and reasonable rates, fares, and charges . . . and classifications, regulations, and practices".
218(a)	"reasonable minimum rates and charges", "reasonable regulations and practices".
218(b)	"just and reasonable minimum rate or charge, or such rule, regulation, or practice".
218(c)	"lawfulness of such charge, or such rule, regulation, or practice".
221(a)	"lawfulness of rates, fares, charges, classifications, or practices".
304(c)	"just and reasonable classifications of groups of carriers".
304(d)	"undue disadvantage".
305(a)	"just and reasonable rates, fares, charges, and classifications, and just and reasonable regulations and practices", "unjust and unreasonable charge [for a service]".
305(b)	"reasonable through routes", "just and reasonable rates, fares, charges, and classifications", "reasonable facilities", "reasonable rules and regulations", "reasonable through routes and rates, fares, charges, and classifications", "just, reasonable, and equitable divisions".
305(c)	"undue or unreasonable preference or advantage", "unjust discrimination or any undue or unreasonable prejudice or advantage, or an unfair or destructive competitive practice".
305(d)	"reasonable, proper, and equal facilities", "not discriminate [in rates, fares, and charges], or unduly prejudice . . .".

Interstate Commerce Act section	*Words used*
306(e)	"reasonable minimum rates and charges", "reasonable regulations, and practices", "reasonable minimum rates and charges".
307(b)	"unjust or unreasonable [rate, fare, charge, regulation, practice, or classification]", "unjustly discriminatory or unduly preferential or prejudicial", "lawful rates, fare, or charge or the maximum or minimum", lawful regulation, practice, or classification".
307(c)	"justness or reasonableness of any rate, fare, or charge".
307(d)	"reasonable differentials".
307(e)	division of joint rates: "unjust, unreasonable, inequitable, or unduly preferential or prejudicial", "just, reasonable, and equitable divisions".
307(f)	"just and reasonable rates, fares, and charges, . . . and classifications, regulations, and practices".
307(g)	"lawfulness of such rate, fare, charge, classification, regulation, or practice".
307(h)	"just and reasonable minimum rate or charge, or such rule, regulation, or practice", "no advantage or preference".
307(i)	"lawfulness of such charge, or such rule, regulation, or practice".
314	"just and reasonable [charge or allowance]", "reasonable charge".
315(a)	"lawfulness of rates, fares, charges, classifications, or practices".
316(b)	"reasonableness of rates, fares, or charges, and the discriminatory character thereof".
403(b)	"reasonable requirements" for service.
404(a)	"just and reasonable rates and charges", "just and reasonable classifications, regulations, and practices", "unjust or unreasonable rate, charge, classification, regulation, or practice".
404(b)	"undue or unreasonable preference or advantage", "unjust discrimination or any undue or unreasonable prejudice or disadvantage".
404(c)	"undue or unreasonable preference or advantage", "undue or unreasonable prejudice or disadvantage".
405(c)	rates or charges "lawfully in effect".
406(b)	rate or charge: "unjust or unreasonable or unjustly discriminatory, or unduly preferential or prejudicial", "lawful" rate, charge, maximum, minimum, classification, regulation, or practice.
406(c)	"justness or reasonableness of any rate or charge".
406(d)	"just and reasonable rates and charges . . ., and classifications, regulations and practices".
406(e)	"lawfulness" of the rate, charge, classification, regulation, or practice.
406(f)	"rate, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice", "undue, unreasonable, or unjust discrimination against interstate commerce".
406a(5)	"unjust and unreasonable [charges], or unjustly discriminatory or unduly preferential or unduly prejudicial".
409(a)	"just, reasonable, and equitable terms, conditions, and compensation which shall not unduly prefer or prejudice".
414	"unjust discrimination or undue preference or prejudice".
415	"just and reasonable" charges and allowances.
416(a)	"lawfulness of rates, charges, classifications, or practices".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1653, 10505, 10525, 10526, 10544, 10702, 10704, 10706, 10761, 10762, 10766, 10923, 10924, 10930, 10933, 11108; title 33 section 1803 of this title.

§ 10102. Definitions

In this subtitle—

(1) "broker" means a person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation.

(2) "carrier" means a common carrier and a contract carrier.

(3) "car service" includes (A) the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, other vehicles, and special types of equipment used in the transportation of property by a rail carrier, and (B) the supply of trains by a rail carrier.

(4) "common carrier" means an express carrier, a pipeline carrier, a rail carrier, a sleeping car carrier, a motor common carrier, a water common carrier, and a freight forwarder.

(5) "contract carrier" means a motor contract carrier and a water contract carrier.

(6) "control", when referring to a relationship between persons, includes actual control, legal control, and the power to exercise control, through or by (A) common directors, officers, stockholders, a voting trust, or a holding or investment company, or (B) any other means.

(7) "express carrier" means a person providing express transportation for compensation.

(8) "freight forwarder" means a person holding itself out to the general public (other than as an express, pipeline, rail, sleeping car, motor, or water carrier) to provide transportation of property for compensation and in the ordinary course of its business—

(A) assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments;

(B) assumes responsibility for the transportation from the place of receipt to the place of destination; and

(C) uses for any part of the transportation a carrier subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title.

(9) "highway" means a road, highway, street, and way in a State.

(10) "motor carrier" means a motor common carrier and a motor contract carrier.

(11) "motor common carrier" means a person holding itself out to the general public to provide motor vehicle transportation for compensation over regular or irregular routes, or both.

(12) "motor contract carrier" means a person, other than a motor common carrier, providing motor vehicle transportation for compensation under continuing agreements with a person or a limited number of persons—

(A) by assigning motor vehicles for a continuing period of time for the exclusive use of each such person; or

(B) designed to meet the distinct needs of each such person.

(13) "motor private carrier" means a person, other than a motor carrier, transporting property by motor vehicle when—

(A) the transportation is as provided in section 10521(a)(1) and (2) of this title;

(B) the person is the owner, lessee, or bailee of the property being transported; and

(C) the property is being transported for sale, lease, rent, or bailment, or to further a commercial enterprise.

(14) "motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway in transportation, or a combination determined by the Commission, but does not include a vehicle, locomotive, or car operated only on a rail, or a trolley bus operated by electric power from a fixed overhead wire, and providing local passenger transportation similar to street-railway service.

(15) "person", in addition to its meaning under section 1 of title 1, includes a trustee, receiver, assignee, or personal representative of a person.

(16) "pipeline carrier" means a person providing pipeline transportation for compensation.

(17) "rail carrier" means a person providing railroad transportation for compensation.

(18) "railroad" includes—

(A) a bridge, car float, lighter, and ferry used by or in connection with a railroad;

(B) the road used by a rail carrier and owned by it or operated under an agreement; and

(C) a switch, spur, track, terminal, terminal facility, and a freight depot, yard, and ground, used or necessary for transportation.

(19) "rate" means a rate, fare, or charge for transportation.

(20) "sleeping car carrier" means a person providing sleeping car transportation for compensation.

(21) "State" means a State of the United States and the District of Columbia.

(22) "tariff", when used in reference to a contract carrier, means a schedule.

(23) "transportation" includes—

(A) a locomotive, car, vehicle, motor vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, regardless of ownership or an agreement concerning use; and

(B) services related to that movement, including receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, and interchange of passengers and property.

(24) "United States" means the States of the United States and the District of Columbia.

(25) "vessel" means a watercraft or other artificial contrivance that is used, is capable of being used, or is intended to be used, as a means of transportation by water.

(26) "water carrier" means a water common carrier and a water contract carrier.

(27) "water common carrier" means a person holding itself out to the general public to provide water transportation for compensation.

(28) "water contract carrier" means a person, other than a water common carrier, providing water transportation for compensation under an agreement with another person, including transportation on a vessel provided to a person other than a carrier subject to the jurisdiction of the Commission under this subtitle when the vessel is used to transport only the property of the other person.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1338.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10102(1).....	49:303(a)(18).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 203(a)(1), (8), (9), (12), (13), (14) (less exception), (15), (16), (17), (18), (19); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 544; June 29, 1938, ch. 811, § 2, 52 Stat. 1237; Sept. 18, 1940, ch. 722, § 18, 54 Stat. 920; Sept. 1, 1950, ch. 835, § 1(a), 64 Stat. 574; Aug. 22, 1957, Pub. L. 85-163, § 1(1), 71 Stat. 411.
10102(2).....	(No source).	
10102(3).....	49:1(10).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(10); added May 29, 1917, ch. 23, § 1, 40 Stat. 101; restated Feb. 28, 1920, ch. 91, § 402, 41 Stat. 476; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
10102(4).....	49:1(3)(a) (1st sentence).	Feb. 4, 1887, ch. 104, § 1(3)(a), 24 Stat. 379; restated June 29, 1906, ch. 3591, § 1, 34 Stat. 584; restated Feb. 28, 1920, ch. 91, § 400, 41 Stat. 474; June 19, 1934, ch. 652, § 602(b), 48 Stat. 1102; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 2(a), 54 Stat. 899.
	49:303(a)(14) (less exception).	
	49:902(d) (less exception).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 302(a), (c), (d) (less exception), (e) (1st and 2d sentences), (f), (g), (h), (j), (k), (l), (m); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 929.
	49:1002(a)(5).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 402(a)(1), (3), (4), (5), (8); added May 16, 1942, ch. 318, § 1, 56 Stat. 284; Dec. 20, 1950, ch. 1140, § 1, 64 Stat. 1113.
10102(5).....	(No source).	
10102(6).....	49:1(3)(b).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(3)(b); added Sept. 18, 1940, ch. 722, § 2(b), 54 Stat. 899.
	49:1002(a)(8).	

HISTORICAL AND REVISION NOTES—Continued

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10102(7).....	49:1(3)(a) (1st sentence related to express carriers), (2d sentence). 49:303(a)(9).	
10102(8).....	49:1002(a)(5).	
10102(9).....	49:303(a)(12).	
10102(10).....	49:303(a)(16).	
10102(11).....	49:303(a)(14) (less exception). 49:902(m).	
10102(12).....	49:303(a)(15).	
10102(13).....	49:303(a)(17).	
10102(14).....	49:303(a)(13).	
10102(15).....	49:1(3)(a) (last sentence). 49:303(a)(1). 49:902(a). 49:1002(a)(1).	
10102(16).....	49:1(3)(a) (1st sentence related to pipeline carriers), (2d sentence).	
10102(17).....	49:1(3)(a) (2d sentence). 49:902(1).	
10102(18).....	49:1(3)(a) (3d sentence).	
10102(19).....	49:1(5)(c)(ii).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(5)(c)(ii); added Feb. 5, 1976, Pub. L. 94-210, § 202(b), 90 Stat. 35.
10102(20).....	49:1(3)(a) (1st sentence related to sleeping car carriers), (2d sentence).	
10102(21).....	49:303(a)(8). 49:902(k). 49:1002(a)(3).	
10102(22).....	(No source).	
10102(23).....	49:1(3)(a) (4th sentence). 49:303(a)(19). 49:902(g), (h).	
10102(24).....	49:902(j). 49:1002(a)(4).	
10102(25).....	49:902(f).	
10102(26).....	49:902(c).	
10102(27).....	49:902(d) (less exception).	
10102(28).....	49:902(e) (1st and 2d sentences).	

In clause (1), the words "bona fide" are omitted for consistency and as being unnecessary. The words "transportation by motor carrier" are substituted for "transportation subject to this chapter" and "such transportation" for clarity and because the jurisdiction of the Commission is stated separately in chapter 105 of the revised title and is unnecessary to be referred to in a definition. The words "furnishes, contracts" are omitted for consistency and as being surplus.

Clauses (2) and (4) are included because a number of the provisions of the subtitle relate to all carriers and all common carriers, respectively, subject to the jurisdiction of the Commission, and the terms "common carriers" and "carrier" provide simple phrases to refer to those carriers.

In clause (3), the words "subject to this chapter" are omitted as unnecessary in the definition and because the jurisdiction of the Commission is stated separately in chapter 105 of the revised title.

Clause (5) is included because a number of the provisions of the subtitle relate to motor contract carriers and water contract carriers, and the term "contract carrier" provides a simple phrase to refer to both of those kinds of carriers.

In clause (6), the words "or persons", "shall be construed to", "or trusts", "or companies", and "direct or indirect" are omitted for consistency and as being surplus. The words "reason of the method of or circumstances surrounding organization or operation, through or by" are omitted as unnecessary as being included in the words "power to exercise control". In 49:1(3)(b), the phrase "For the purposes of sections 5, 12(1), 20, 304(a)(7), 310, 320, 904(b), 910, and 913 of this title" is omitted for consistency and as being unnecessary because the sections referred to, and 49:1002(a)(8), have the effect of applying the "control" definition to the subtitle.

In clauses (7), (16), (17), and (20), the words "for compensation" are substituted for "for hire" for consistency.

In clause (7), the words "natural or artificial" are omitted as surplus in view of the definition of "person" in this section and in section 1 of title 1. The words "providing express transportation" are substituted for "engaged in such transportation as aforesaid" in view of chapter 105 of the revised title.

In clause (8), the words "to transport or" are omitted as surplus because of the use of the broader phrase "provide transportation". The words "or any class or classes of property, . . . in interstate commerce" are omitted as unnecessary in view of the restatement of the various definitions of "interstate commerce" and "foreign commerce" as grants of jurisdiction to the Commission. The words "ordinary course of its business" are substituted for "ordinary and usual course of its undertaking" for clarity. The word "place" is substituted for "point" for consistency.

In clause (11), the words "in interstate or foreign commerce of passengers or property or any class or classes thereof" are omitted as unnecessary in view of the restatement of the various definitions of "interstate commerce" and "foreign commerce" as grants of jurisdiction to the Commission under chapter 105 of the revised title. The words "or both" are inserted for clarity.

In clause (12), the words "of passengers or property in interstate or foreign commerce" are omitted for consistency and as being unnecessary in view of the restatement of the various definitions of "interstate commerce" and "foreign commerce" as grants of jurisdiction to the Commission. The words "other than a motor common carrier" are substituted for "other than transportation referred to in paragraph (14) of this subsection" as being more precise. The words "and the exception therein" are omitted for consistency and as being unnecessary in view of the restatement of the exception in section 10502 of this title as a jurisdictional provision. The word "agreements" is substituted for "contracts" for consistency. The words "furnishing of transportation services" are omitted as surplus and for clarity. The words "each such person" are substituted for "each individual customer" for consistency within the clause.

In clause (13), the words "motor private carrier" are substituted for "private carrier of property by motor vehicle" for clarity. The words "other than a motor carrier" are substituted for "not included in the terms 'common carrier by motor vehicle' or 'contract carrier by motor vehicle' " in view of the definition in clause (10) that includes both such carriers. The words "the purpose of" are omitted as surplus. The words "as provided in section 10521(a)(1) and (2) of this title" are substituted for "interstate or foreign commerce" in view of the codification of the latter term from 49:303(a)(10) and (11) in section 10521(a) of the revised title.

In clause (14), the words "or rails" are omitted as surplus. The words "of passengers or property" are omitted as unnecessary in view of the definition of transportation that includes passengers and property.

In clause (15), the words "in addition to its meaning under section 1 of title 1" are substituted for "includes an individual, firm, copartnership, corporation, company, association, or joint stock association" for consistency since section 1 of title 1, United States Code, is applicable to all laws unless otherwise provided.

In clause (18), the words "a contract" and "or lease" are omitted as unnecessary because they are included in the word "agreement". The words "of every kind" are omitted as unnecessary. The words "persons or property" and "or delivery" are omitted as unnecessary because those terms are included in the definition of transportation.

In clause (19), the word "charge" is inserted for clarity. The definition is made applicable to the entire subtitle to eliminate repetition of the words "fares or charges". The words "persons or property" are omitted as unnecessary in view of the definition of transportation that includes passengers and property.

In clause (22), the definition of the word "tariff" is added for clarity.

Clause (23) consolidates and restates the source provisions for clarity and consistency. The words "express or implied" are omitted as unnecessary and for consistency. In 49:1(3)(a) (4th sentence), the word "agreement" is substituted for "contract" for consistency. In 49:303(a)(19), the word "service" is omitted to provide only one defined term for consistency in the codification of the subtitle. In 49:303(a)(19), the words "in interstate or foreign commerce" are omitted for consistency and as being unnecessary in view of the restatement of the various definitions of "interstate commerce" and "foreign commerce" as grants of jurisdiction to the Commission under chapter 105 of the revised title. In 49:902(g), the words "of any kind" are omitted as unnecessary. In 49:902(h), the words "interchange of passengers and property" are substituted for "property transported or the interchange thereof with any other agency of transportation" for consistency and clarity.

In clause (25), the words "of whatever description" are omitted as unnecessary.

In clause (27), the words "in interstate or foreign commerce of passengers or property or any class or classes thereof" are omitted as unnecessary in view of the restatement of the various definitions of "interstate commerce" and "foreign commerce" as grants of jurisdiction to the Commission.

In clause (28), the words "other than a water common carrier" are substituted for "other than transportation referred to in paragraph (d) of this section" as being more precise. The words "and the exception therein" are omitted for consistency and as being unnecessary in view of the restatement of the exception in section 10502 of the title as a jurisdictional provisional provision. The words "contracts or" are omitted as surplus and for consistency. The words "of passengers or property in interstate or foreign commerce" are omitted as unnecessary in view of the restatement of the various definitions of "interstate commerce" and "foreign commerce" as grants of jurisdiction to the Commission.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11126 of this title; title 26 section 250; title 29 section 186; title 39 section 5201; title 42 section 4917; title 45 sections 502, 544, 546, 702, 741, 801.

§ 10103. Remedies as cumulative

The remedies provided under this subtitle are in addition to remedies existing under another law or at common law.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1340.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10103.....	49:20(11) (2d sentence, 1st proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 20(11) (2d sentence, 1st proviso); added June 29, 1906, ch. 3591, § 7, 34 Stat. 595; Mar. 4, 1915, ch. 176, § 1, 38 Stat. 1196; Feb. 28, 1920, ch. 91, § 436, 41 Stat. 494; Mar. 4, 1927, ch. 510, § 3, 44 Stat. 1448; restated Apr. 23, 1930, ch. 208, § 1, 46 Stat. 251.
	49:22(1) (1st sentence words between 5th and 6th semicolons).	Feb. 4, 1887, ch. 104, § 22(1) (1st sentence words between 5th and 6th semicolons), 24 Stat. 387; restated Mar. 2, 1889, ch. 382, § 9, 25 Stat. 862; Aug. 18, 1922, ch. 280, § 1, 42 Stat. 827; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
	49:316(j), 317(b) (proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §§ 216(j), 217(b) (proviso); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 560, 561; Sept. 18, 1940, ch. 722, § 22(e), 54 Stat. 925.
	49:906(c) (proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 306(c) (proviso); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 935.
	49:1005(c) (proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 405(c) (proviso); added May 16, 1942, ch. 318, § 1, 56 Stat. 287.

The section consolidates and restates the source provisions for clarity. The word "subtitle" is substituted for "chapter" in 49:22(1) to conform to the revised title. The words "and nothing in this chapter contained shall in any way abridge or alter the remedies now existing" in 49:22(1) are omitted as unnecessary and as being included in the words "are in addition to". The word "law" is substituted for "statute" in 49:22(1) for consistency.

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SUBCHAPTER I—ORGANIZATION

§ 10301. General

(a) The Interstate Commerce Commission is an independent establishment of the United States Government.

(b) The Commission is composed of 11 members appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members as Chairman. Not more than 6 members may be appointed from the same political party.

(c) The term of each member of the Commission is 7 years and begins when the term of the predecessor of that member ends. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, is appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified. The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

(d) A member of the Commission may not have a pecuniary interest in, hold an official relation to, or own stock in or bonds of, a carrier providing transportation by any mode and may not engage in another business, vocation, or employment.

(e) A vacancy in the membership of the Commission does not impair the right of the remaining members to exercise all of the powers of the Commission. The Commission may designate a member to act as Chairman during any period in which there is no Chairman designated by the President.

(f) Subject to the general policies, decisions, findings, and determinations of the Commission, the Chairman is responsible for administering the Commission. The Chairman may delegate the powers granted under this subsection to an officer, employee, or administrative unit of the Commission. The Chairman shall—

(1) appoint and supervise, other than regular and full time employees in the immediate offices of another member, the officers and employees of the Commission, including attorneys to provide legal aid and service to the Commission and its members, to represent the public interest in investigations and proceedings of the Commission, and to represent the Commission in any case in court;

(2) appoint the heads of major administrative units with the approval of the Commission;

(3) distribute Commission business among officers and employees and administrative units of the Commission;

(4) prepare requests for appropriations for the Commission and submit those requests to the President and Congress with the prior approval of the Commission; and

(5) supervise the expenditure of funds allocated by the Commission for major programs and purposes.

(g) The Commission shall have a seal that shall be judicially recognized.

(h) The expenses of the Commission shall be paid after presentation and approval by the Chairman of itemized vouchers.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1341.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10301(a), (b), (c).	49:11.	Feb. 4, 1887, ch. 104, §§ 11, 24, 24 Stat. 383, 387; June 29, 1906, ch. 3591, § 8, 34 Stat. 595; Aug. 9, 1917, ch. 50, § 1, 40 Stat. 270; Feb. 28, 1920, ch. 91, § 440, 41 Stat. 497; July 16, 1935, ch. 383, § 1, 49 Stat. 481; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Reorg. Plan No. 1 of 1969, eff. Oct. 11, 1969, § 3, 83 Stat. 859.
	49:18(1) (1st sentence).	Feb. 4, 1887, ch. 104, § 18(1) (1st and 3d sentences), 24 Stat. 386, 387; Mar. 2, 1889, ch. 382, § 7, 25 Stat. 861; June 29, 1906, ch. 3591, § 8, 34 Stat. 595; Feb. 28, 1920, ch. 91, §§ 433, 440, 41 Stat. 493, 497.
10301(d).....	49:11.	
	49:305(i) (related to members of Commission).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(i) (related to members of Commission); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 550; Sept. 18, 1940, ch. 722, § 20(c)(2), 54 Stat. 922.
10301(e).....	49:11.	
	49:11 (note).	Reorg. Plan No. 1 of 1969, eff. Oct. 11, 1969, §§ 1, 2, 83 Stat. 859.
10301(f).....	49:11 (note).	

HISTORICAL AND REVISION NOTES—Continued

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
	49:16(11).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 16(11); added June 18, 1910, ch. 309, § 13, 36 Stat. 554; Oct. 22, 1913, ch. 32, § 1, 38 Stat. 219; restated Feb. 28, 1920, ch. 91, § 428, 41 Stat. 492.
	49:18(1) (3d sentence).	
	49:19a(a) (2d and 3d sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 19a(a) (2d and 3d sentences); added Mar. 1, 1913, ch. 92, § 1, 37 Stat. 701; Feb. 28, 1920, ch. 91, § 433, 41 Stat. 493; June 16, 1933, ch. 91, § 207, 48 Stat. 221.
	49:20(10).	Feb. 4, 1887, ch. 104, § 20(10), 24 Stat. 386; restated June 29, 1906, ch. 3591, § 7, 34 Stat. 593; Feb. 28, 1920, ch. 91, § 436, 41 Stat. 494; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
	49:305(j).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(j); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 548; Sept. 18, 1940, ch. 722, § 20(c), (2), 54 Stat. 922.
	49:919.	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 319; added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 950.
10301(g)	49:17(3) (2d sentence).	Feb. 4, 1887, ch. 104, § 17(3) (2d sentence), 24 Stat. 385; Mar. 2, 1889, ch. 382, § 6, 25 Stat. 861; Aug. 9, 1917, ch. 50, § 2, 40 Stat. 270; Feb. 28, 1920, ch. 91, § 432, 41 Stat. 493; restated Sept. 18, 1940, ch. 722, § 12, 54 Stat. 913.
	49:305(h).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(h); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 548; Sept. 18, 1940, ch. 722, § 20(c), (2), 54 Stat. 922.
	49:916(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 316(a); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946; Oct. 15, 1970, Pub. L. 91-452, § 243(b), 84 Stat. 931.
	49:1017(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(a); added May 16, 1942, ch. 318, § 1, 56 Stat. 297; Oct. 15, 1970, Pub. L. 91-452, § 243(c), 84 Stat. 931.
10301(h)	49:18(2).	Feb. 4, 1887, ch. 104, § 18(2), 24 Stat. 386; restated Mar. 2, 1889, ch. 382, § 7, 25 Stat. 861; Feb. 28, 1920, ch. 91, § 433, 41 Stat. 493.

The section consolidates and restates the source provisions for clarity. The 3d sentence of 49:11 is omitted as executed. The text of 49:18(1) (1st sentence) is omitted as surplus in view of chapter 53 of title 5.

In subsection (d), the words "employ or" in the 6th sentence of 49:11 are omitted as surplus.

In subsection (f), the 2d and 3d sentences of 49:19a(a) are omitted as surplus. The words "examiners" and "special agents" are omitted as surplus. The words "executive and" in section 1(a) of Reorg. Plan No. 1 of 1969, are omitted as surplus.

In subsection (h), reference to transportation expenses is omitted as unnessary in view of chapter 57 of title 5.

§ 10302. Divisions of the Commission

(a) The Interstate Commerce Commission may establish and assign Commissioners to serve on as many divisions as may be necessary and may designate any division as an appellate division. Each division shall be composed of at least 3 Commissioners. The Commission may assign a Commissioner to serve on more than one division.

(b) Unless otherwise directed by the Commission—

(1) the Commissioner senior in service of the Commissioners on a division is chairman of the division; and

(2) the Chairman of the Commission, or another Commissioner designated by the Chairman, may serve on a division temporarily, when there is a vacancy in the membership of the division or when another Commissioner is absent or unable to serve.

(c) The Commission shall designate each division numerically or by a term descriptive of the function of that division.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1342.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10302	49:17(1).	Feb. 4, 1887, ch. 104, § 17(1), 24 Stat. 385; Mar. 2, 1889, ch. 382, § 6, 25 Stat. 861; Aug. 9, 1917, ch. 50, § 2, 40 Stat. 270; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 12, 54 Stat. 913.
	49:305(h).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(h); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 548; Sept. 18, 1940, ch. 722, § 20(c)(2), 54 Stat. 922.
	49:916(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 316(a); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946; Oct. 15, 1970, Pub. L. 91-452, § 243(b), 84 Stat. 931.
	49:1017(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(a); added May 16, 1942, ch. 318, § 1, 56 Stat. 297; Oct. 15, 1970, Pub. L. 91-452, § 243(c), 84 Stat. 931.

The section consolidates and restates the source provisions for clarity. The words "which may be changed from time to time" are omitted as surplus.

§ 10303. Secretary of the Commission; public records

(a) The Chairman of the Interstate Commerce Commission, with its approval, shall appoint the Secretary of the Commission.

(b) The Secretary is the custodian of public records filed with the Commission. Copies of classifications, tariffs, and all arrangements filed with the Commission under this subtitle, and the statistics, tables, and figures contained in reports made to the Commission under this subtitle, are public records. A public record, or a copy or extract of it, certified by the Secretary under the seal of the Commission is competent evidence in a proceeding of the Commission and in a judicial proceeding.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1342.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10303(a).....	49:18(1) (2d sentence).	Feb. 4, 1887, ch. 104, § 18(1) (2d sentence), 24 Stat. 385; Mar. 2, 1889, ch. 382, § 7, 25 Stat. 861; June 29, 1906, ch. 3591, § 8, 34 Stat. 595; Feb. 28, 1920, ch. 91, §§ 433, 440, 41 Stat. 493, 497.
	49:17(4) (2d sentence).	Feb. 4, 1887, ch. 104, § 17(4) (2d sentence), 24 Stat. 385; Mar. 2, 1889, ch. 382, § 6, 25 Stat. 861; Aug. 9, 1917, ch. 50, § 2, 40 Stat. 270; Feb. 28, 1920, ch. 91, § 432, 41 Stat. 493; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 12, 54 Stat. 913.
	49:305(h).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(h); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 548; Sept. 18, 1940, ch. 722, § 20(c), 54 Stat. 922.
	49:916(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 316(a); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946; Oct. 15, 1970, Pub. L. 91–452, § 243(b), 84 Stat. 931.
	49:1017(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(a); added May 16, 1942, ch. 318, § 1, 56 Stat. 297; Oct. 15, 1970, Pub. L. 91–452, § 243(c), 84 Stat. 931.
10303(b).....	49:16(13).	Feb. 4, 1887, ch. 104, § 16(13), 24 Stat. 384; Mar. 2, 1889, ch. 382, § 5, 25 Stat. 859; June 29, 1906, ch. 3591, § 5, 34 Stat. 590; restated June 18, 1910, ch. 309, § 13, 36 Stat. 554; Feb. 28, 1920, ch. 91, § 429, 41 Stat. 492; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
	49:304(d)(related to administrative matters).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(d) (related to administrative matters); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 546; Sept. 18, 1940, ch. 722, § 20(b)(3), 54 Stat. 922.

HISTORICAL AND REVISION NOTES—Continued

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49:916(d).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 316(d); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946.
	49:1017(d).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(d); added May 16, 1942, ch. 318, § 1, 56 Stat. 297.

The section consolidates and restates the source provisions for clarity.

In subsection (a), the 2d sentence of 49:17(4) is omitted as surplus.

In subsection (b), the words "shall be preserved" and "with like effect as the originals" from 49:16(13), 916(d), and 1017(d) are omitted as surplus. The word "arrangements" is substituted for "contracts, agreements, and arrangements" for clarity. The word "tariffs" is substituted for "schedules . . . tariffs" in view of the definition of "tariff" in section 10102 of the revised title. The words "rates, fares, and charges" are omitted in view of the requirement of subchapter IV of chapter 107 that rates, fares, and charges be included in tariffs. The words "is competent evidence in a proceeding of the Commission" are substituted for "shall be received as prima facie evidence of what they purport to be for the purpose of investigation by the Commission" in 49:16(13) for clarity.

§ 10304. Employee boards

The Interstate Commerce Commission may establish employee boards composed of at least 3 employees. An employee who is a director or assistant director of a bureau, a chief of a section, an employee designated by the Commission, or an attorney may serve on a board.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1342.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10304.....	49:17(2) (1st sentence 80th-98th words and 2d sentence).	Feb. 4, 1887, ch. 104, § 17(2) (1st sentence 80th-98th words and 2d sentence), 24 Stat. 385; Aug. 9, 1917, ch. 50, § 2, 40 Stat. 270; Feb. 28, 1920, ch. 91, § 431, 41 Stat. 492; Feb. 28, 1933, ch. 136, § 1, 47 Stat. 1368; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 12, 54 Stat. 913.
	49:305(h).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(h); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 548; Sept. 18, 1940, ch. 722, § 20(c), 54 Stat. 922.
	49:916(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 316(a); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946; Oct. 15, 1970, Pub. L. 91–452, § 243(b), 84 Stat. 931.

HISTORICAL AND REVISION NOTES—Continued

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
	49:1017(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(a); added May 16, 1942, ch. 318, § 1, 56 Stat. 297; Oct. 15, 1970, Pub. L. 91-452, § 243(c), 84 Stat. 931.

The words "The following classes of employees shall be eligible for designation by the Commission to serve on such boards" are omitted as unnecessary in view of the restatement. The words "employee designated by the Commission" are substituted for "examiner" because as used in this section the term is not limited to an employee appointed under section 3105 of title 5. As a result, the Commission may classify any group of employees as examiners under 49:17(2). That result is not affected by subchapter II of chapter 5 of title 5 because of section 559 of title 5.

§ 10305. Delegation of authority

(a) The Interstate Commerce Commission may delegate to a division, an individual Commissioner, an employee board, or an employee appointed under section 3105 of title 5, a matter before the Commission for action, including a matter referred to it by either House of Congress or by Congress. However, the Commission may not delegate a matter required to be referred to a joint board under section 10341 of this title, or a function vested in the Commission under this chapter. The Commission may change or rescind a delegation under this subsection at any time. When a Commissioner or employee cannot act on a matter delegated under this section because of absence or another reason, the Chairman of the Commission may designate another Commissioner or employee, as the case may be, to serve temporarily until the Commission otherwise orders.

(b) Delegation to a division of a matter related to the validity of rates shall be made according to the character of regulation exercised. The delegation of any such matter may not be made according to the kind or class of carrier involved or to the form or mode of transportation in which that carrier may be engaged.

(c) A division, individual Commissioner, employee board, or an employee may act on a matter delegated under subsection (a) of this section. When acting under this section, a division, individual Commissioner, board, or an employee has the same power and authority and is subject to the same duties and obligations as the Commission. Action taken under this section has the same force and is taken in the same manner as if taken by the Commission.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1342.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10305(a), (b).	49:17(2) (less 80th-98th words in 1st sentence and less 2d sentence).	Feb. 4, 1887, ch. 104, § 17(2) (less 80th-98th words in 1st sentence and less 2d sentence), (4) (1st and 3d sentences), 24 Stat. 385; Aug. 9, 1917, ch. 50, § 2, 40 Stat. 270; Feb. 28, 1920, ch. 91, § 432, 41 Stat. 492; Feb. 28, 1933, ch. 136, § 1, 47 Stat. 1368; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 12, 54 Stat. 913.
	49:17(11).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 17(11); added Sept. 18, 1940, ch. 722, § 12, 54 Stat. 913; Feb. 5, 1976, Pub. L. 94-210, § 303(a), 90 Stat. 48.
	49:305(h).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(h); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 548; Sept. 18, 1940, ch. 722, § 20(c), 54 Stat. 922.
	49:916(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 316(a); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946; Oct. 15, 1970, Pub. L. 91-452, § 243(b), 84 Stat. 931.
	49:1017(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(a); added May 16, 1942, ch. 318, § 1, 56 Stat. 297; Oct. 15, 1970, Pub. L. 91-452, § 243(c), 84 Stat. 931.
10305(c).....	49:17(4) (1st and 3d sentences). 49:17(11). 49:305(h). 49:916(a). 49:1017(a).	

In subsection (a), the words "work, business, or functions under any provision of law" and "by order" from 49:17(2) are omitted as surplus. The word "change" is substituted for "amend", "modify", and "supplement" in 49:17(2) for clarity and consistency. The words "employee appointed under section 3105 of title 5" are substituted for "examiner" in 49:17(11) for clarity because those examiners perform judicial functions. The provisions of 49:17(11) initially applied only to hearings involving motor carriers but are revised to apply to any matter under the subtitle in view of section 556 of title 5.

In subsection (c), the words "hear", "determine", "order", "certify", "report", "otherwise act", "force", and "evidenced" from 49:17(4) are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10306, 10307, 10310, 10321, 10322, 10325, 10327 of this title.

§ 10306. Conduct of proceedings

(a) A majority of the Interstate Commerce Commission, a division, or an employee board is a quorum for the transaction of business. A Commissioner, the Secretary of the Commission, a member of an employee board, or an em-

ployee delegated to act under section 10305 of this title may administer oaths.

(b) A party may appear and be heard before the Commission, a division, an individual Commissioner, a board, or an employee delegated to act under section 10305 of this title in person or by an individual admitted to practice under section 10308 of this title. A hearing before the Commission, a division, an individual Commissioner, a board, or an employee shall be made public on the request of an interested party.

(c) The Commission shall conform its forms for giving notice and their manner of service, to the extent practical, to those used by the courts of the United States.

(d) Votes and other official acts of the Commission, a division, an individual Commissioner, an employee board, or an employee delegated to act under section 10305 of this title shall be recorded and shall be made public on the request of an interested party.

(e) A member of a board and an employee delegated to act under section 10305 of this title may not have a pecuniary interest in, hold an official relation to, or own securities of a carrier providing transportation by any mode.

(f) The Commission shall review at least once every 3 years and revise as necessary the rules of practice for matters related to rail carriers adopted under section 305(c) of the Railroad Revitalization and Regulatory Reform Act of 1976 (90 Stat. 53).

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1343.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10306(a)–(e).	49:17(3) (less 2d sentence and last 42 words of 3d sentence).	Feb. 4, 1887, ch. 104, § 17(3) (less 2d sentence and last 42 words of 3d sentence), 24 Stat. 385; Mar. 2, 1889, ch. 382, § 6, 25 Stat. 861; Aug. 9, 1917, ch. 50, § 2, 40 Stat. 270; Feb. 28, 1920, ch. 91, § 430, 41 Stat. 492; Feb. 28, 1933, ch. 136, § 1, 47 Stat. 1368; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 12, 54 Stat. 913.
	49:17(11).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 17(11); added Sept. 18, 1940, ch. 722, § 12, 54 Stat. 913; Feb. 5, 1976, Pub. L. 94-210, § 304(a), 90 Stat. 48.
	49:305(h), (i) (related to examiners).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(h), (i) (related to examiners); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 548; Sept. 18, 1940, ch. 722, § 20(c)(2), 54 Stat. 922.
	49:916(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 316(a); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946; Oct. 15, 1970, Pub. L. 91-452, § 243(b), 84 Stat. 931.

HISTORICAL AND REVISION NOTES—Continued

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49:1017(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(a); added May 16, 1942, ch. 318, § 1, 56 Stat. 297; Oct. 15, 1970, Pub. L. 91-452, § 243(c), 84 Stat. 931.
10306(f)	49:17 (note).	Feb. 5, 1976, Pub. L. 94-210, § 305(e), 90 Stat. 54.

In subsections (a)–(e), the first sentence of 49:17(3) is omitted as surplus. The words "The Commission may, from time to time, make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, or before any division, individual Commissioner, or board, including forms of notice and service thereof" in 49:17(3) (5th sentence) are omitted as unnecessary in view of section 10321 of the revised title. The last sentence of 49:17(3) is omitted as unnecessary in view of section 10301(d) of the revised title and subsection (e) of this section. The words "individual admitted to practice under section 10308 of this title" are substituted for "attorney" for consistency in view of section 10308. The words "shall be recorded" are substituted for "shall be entered of record" in 49:17(3) for clarity. The words "transportation by any mode" are substituted for "any motor carrier or in any carrier by railroad, water, or other form of transportation" in 49:305 for clarity.

In subsection (f), the words "at least" are substituted for "not less than" for clarity and consistency. The word "periodically" is omitted as surplus. The words "section 305(c) of the Railroad Revitalization and Regulatory Reform Act of 1976 (90 Stat. 53)" are substituted for "subsection (c) of this section" for clarity in view of the restatement.

REFERENCES IN TEXT

Section 305(c) of the Railroad Revitalization and Regulatory Reform Act of 1976 (90 Stat. 53), referred to in subsec. (f), is Pub. L. 95-210, title III, § 305(c), Feb. 5, 1976, 90 Stat. 53, and was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466.

§ 10307. Office and sessions

(a) The principal office of the Interstate Commerce Commission is in the District of Columbia. Until otherwise provided by law, the Commission may obtain suitable offices for its use and may procure all necessary office supplies.

(b) General sessions of the Commission are held at its principal office. However, the Commission may hold special sessions in any part of the United States, for the convenience of the public or the parties and to avoid delay and expense. The Commission, an individual Commissioner, an employee board, or an employee delegated to act under section 10305 of this title may conduct proceedings under this subtitle in any part of the United States for the convenience of the parties.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1343.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10307(a) (1st sentence).	49:19.	Feb. 4, 1887, ch. 104, § 19, 24 Stat. 386; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
10307(a) (2d sentence).	49:18(1) (4th sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 18(1) (4th sentence); added Mar. 2, 1889, ch. 382, § 7, 25 Stat. 861; June 29, 1906, ch. 3591, § 8, 34 Stat. 595; Feb. 28, 1920, ch. 91, §§ 433, 440, 41 Stat. 493, 497.
10307(b).....	49:19.	
	49:305(c) (related to the Commission).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(c) (related to the Commission); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 549; Sept. 18, 1940, ch. 722, § 20(c)(2), 54 Stat. 922.

In subsection (a) (1st sentence), the words "District of Columbia" in 49:19 are substituted for "city of Washington" to reflect its incorporation.

In subsection (b), the words "conduct proceedings under this subtitle" are substituted for "prosecute any inquiry necessary to its duties" in 49:19 and "hearings" in 49:305(c). Subsection (b) is written to have subtitle-wide application because of the general power of the Commission to conduct investigations and carry out the subtitle under sections 10321 and 11701 of the revised title.

§ 10308. Admission to practice

Subject to section 500 of title 5, the Interstate Commerce Commission may regulate the admission of individuals to practice before it and may impose a reasonable admission fee.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1343.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10308.....	49:17(13).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 17(13); added Sept. 18, 1940, ch. 722, § 12, 54 Stat. 913; Feb. 5, 1976, Pub. L. 94-210, § 303(a), 90 Stat. 48.
	49:305(h).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(h); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 548; Sept. 18, 1940, ch. 722, § 20(c), 54 Stat. 922.
	49:916(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 316(a); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946; Oct. 15, 1970, Pub. L. 91-452, § 243(b), 84 Stat. 931.
	49:1017(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(a); added May 16, 1942, ch. 318, § 1, 56 Stat. 297; Oct. 15, 1970, Pub. L. 91-452, § 243(c), 84 Stat. 931.

The section consolidates and restates the source provisions for clarity. The last clause of 49:17(13) is omitted as surplus in view of section 484 of title 31. The words "Subject to section 500 of title 5" are inserted for clarity and to conform to title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10306 of this title.

§ 10309. Access to records by congressional committees

(a) When the Committee on Interstate and Foreign Commerce of the House of Representatives or the Committee on Commerce, Science, and Transportation of the Senate makes a written request for a record in the possession or under the control of the Interstate Commerce Commission related to a matter involving a rail carrier providing transportation subject to this subtitle, the Commission shall send that record or a copy to the committee by the 10th day after the date of receipt of the request. If the record is not sent, the Commission shall send a written report to that committee within the 10-day period stating the reason why the record has not been sent and the anticipated date on which it will be sent. If the Commission transfers a record in its possession or under its control to another department, agency, or instrumentality of the United States Government, or to a person, it must condition the transfer on the guaranteed return of the record by the transferee to the Commission so that the Commission can comply with this subsection.

(b) Subsection (a) of this section does not apply to a record obtained by the Commission from a person subject to regulation by it if the record contains trade secrets or commercial or financial information of a privileged or confidential nature. Subsection (a) of this section does not limit other authority of Congress, either House of Congress, or a committee or subcommittee of either House, to obtain a record.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1344.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10309.....	49:17(15).	Feb. 4, 1887, ch. 104,24 Stat. 379, § 17(15); added Feb. 5, 1976, Pub. L. 94-210, § 301, 90 Stat. 47.
	49:305(h).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(h); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 548; Sept. 18, 1940, ch. 722, § 20(c), 54 Stat. 922.
	49:916(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 316(a); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946; Oct. 15, 1970, Pub. L. 91-452, § 243(b), 84 Stat. 931.
	49:1017(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(a); added May 16, 1942, ch. 318, § 1, 56 Stat. 297; Oct. 15, 1970, Pub. L. 91-452, § 243(c), 84 Stat. 931.

The words "Committee on Commerce, Science, and Transportation" are substituted for "Committee on

Commerce" to conform to the amendment made to Senate Rule XXV changing the name of the committee. The word "record" is substituted for "document" for consistency with other sections of the revised title and with subchapter II of chapter 5 of title 5. In view of the substitution, the last sentence of 49:17(15) is omitted as unnecessary. The word "send" is substituted for "submit" as being more appropriate.

§ 10310. Reporting official action

(a) The Interstate Commerce Commission shall make a written report of each proceeding conducted on complaint or on its own initiative and furnish a copy to each party to that proceeding. The report shall include the findings, conclusions, and the order of the Commission and, if damages are awarded, the findings of fact supporting the award. The Commission may have its reports published for public use. A published report of the Commission is competent evidence of its contents.

(b)(1) When action of the Commission in a matter related to a rail carrier is taken by the Commission, a division, a group of Commissioners, an individual Commissioner, an employee board, an employee delegated to act under section 10305 of this title, or another individual or group of individuals designated to take official action for the Commission, the written statement of that action (including a report, order, decision and order, vote, notice, letter, policy statements, or regulation) shall indicate—

(A) the official designation of the individual or group taking the action;

(B) the name of each individual taking, or participating in taking, the action; and

(C) the vote or position of each participating individual.

(2) If an individual member of a group taking an official action referred to in paragraph (1) of this subsection does not participate in it, the written statement of the action shall indicate that the member did not participate. An individual participating in taking an official action is entitled to express the views of that individual as part of the written statement of the action. In addition to any publication of the written statement, it shall be made available to the public under section 552(a) of title 5.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1344.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10310(a).....	49:14(1), (2), (3) (less last sentence).	Feb. 4, 1887, ch. 104, § 14(1), (2), (3) (less last sentence), 24 Stat. 383; Mar. 2, 1889, ch. 382, § 4, 25 Stat. 859; restated June 29, 1906, ch. 3591, § 3, 34 Stat. 589; Feb. 28, 1920, ch. 91, § 417, 41 Stat. 484; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
	49:304(d) (related to reports).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(d) (related to reports); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 546; Sept. 18, 1940, ch. 722, § 20(b)(3), 54 Stat. 922.
	49:916(c).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 316(c); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946.
	49:1017(c).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(c); added May 16, 1942, ch. 318, § 1, 56 Stat. 297.
10310(b).....	49:17(9)(j).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 17(9)(j); added Feb. 5, 1976, Pub. L. 94–210, § 303(a), 90 Stat. 48.

In subsection (a), the words "enter of record" and "decisions" are omitted as surplus. The words "for public use" are substituted for "form best adapted for public information and use" for clarity. The words "in all courts of the United States and of the several States without any further proof or authentication thereof" are omitted as surplus.

Subsection (b) is made applicable to official action related only to rail carriers since 49:17(9)(j) is governed by the limitation of 49:17(9)(i) which makes paragraph (9) applicable to matters related to rail carriers only. The words "written statement" are substituted for "reports in writing and other written statement". The last sentence is substituted for the last sentence of 49:17(9)(j) for clarity.

§ 10311. Annual report

The Interstate Commerce Commission shall prepare and send to Congress an annual report before April 3 of each year. The Commission shall include in the annual report information that may be of value in answering questions related to regulation of transportation and the names and pay of individuals employed by the Commission. The Commission may include in its annual report, or send to Congress at any time, recommendations for additional legislation related to regulation of transportation.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1345.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10311.....	49:21.	Feb. 4, 1887, ch. 104, § 21, 24 Stat. 387; Mar. 2, 1889, ch. 382, § 8, 25 Stat. 862; May 23, 1935, ch. 136, § 1, 49 Stat. 287; Apr. 21, 1976, Pub. L. 94–273, § 11(4), 90 Stat. 378.
	49:12(1)(a) (words after semicolon in 2d sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 12(1)(a) (words after semicolon in 2d sentence); added Sept. 18, 1940, ch. 722, § 9, 54 Stat. 910; Feb. 5, 1976, Pub. L. 94–210, § 207, 90 Stat. 42.
	49:14(3) (last sentence).	Feb. 4, 1887, ch. 104, § 14(3) (last sentence), 24 Stat. 384; Mar. 2, 1889, ch. 382, § 4, 25 Stat. 859; restated June 29, 1906, ch. 3591, § 3, 34 Stat. 589; Feb. 28, 1920, ch. 91, § 417, 41 Stat. 484.

HISTORICAL AND REVISION NOTES—Continued

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49:304(a)(7) (words after semicolon).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(7) (words after semicolon); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 546; June 29, 1938, ch. 811, § 4, 52 Stat. 1237; Sept. 18, 1940, ch. 722, § 20(a), 54 Stat. 922.
	49:304(d).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(d); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 546; Sept. 18, 1940, ch. 722, § 20(b)(3), 54 Stat. 922.
	49:904(b) (words after last semicolon).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 304(b) (words after last semicolon); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 933.
	49:916(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 316(a); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946; Oct. 15, 1970, Pub. L. 91-452, § 243(b), 84 Stat. 931.
	49:1003(e) (words after last semicolon).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 403(e) (words after last semicolon); added May 16, 1942, ch. 318, § 1, 56 Stat. 285.
	49:1017(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(a); added May 16, 1942, ch. 318, § 1, 56 Stat. 297; Oct. 15, 1970, Pub. L. 91-452, § 243(c), 84 Stat. 931.

The section consolidates and restates the source provision for clarity. The words "and copies of which shall be distributed as are the other reports transmitted to Congress" in 49:21 are omitted as unnecessary. The words "and data collected by the Commission" in 49:21 are omitted as surplus. The words "individuals employed by" are substituted for "persons employed by" in 49:21 since only natural persons may be employees. The last sentence of 49:14(3) is omitted as unnecessary.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10706 of this title.

SUBCHAPTER II—ADMINISTRATIVE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 10341, 10343, 10705, 10724, 10925, 10928, 10929, 11123, 11124, 11125, 11127, 11349 of this title.

§ 10321. Powers

(a) The Interstate Commerce Commission shall carry out this subtitle. Enumeration of a power of the Commission in this subtitle does not exclude another power the Commission may have in carrying out this subtitle. The Commission may prescribe regulations in carrying out this subtitle.

(b) The Commission may—

(1) inquire into and report on the management of the business of carriers providing, and brokers for, transportation and service subject to this subtitle;

(2) inquire into and report on the management of the business of a person controlling, controlled by, or under common control with those carriers or brokers to the extent that the business of that person is related to the management of the business of that carrier or broker; and

(3) obtain from those carriers, brokers, and persons information the Commission decides is necessary to carry out this subtitle.

(c)(1) The Commission, an individual Commissioner, an employee board, and an employee delegated to act under section 10305 of this title may subpena witnesses and records related to a proceeding of the Commission from any place in the United States, to the designated place of the proceeding. If a witness disobeys a subpena, the Commission, or a party to a proceeding before the Commission, may petition a court of the United States to enforce that subpena.

(2) Subpenas may be signed by a Commissioner, the Secretary of the Commission, or a member of a board when the subpena relates to a matter delegated to the board under section 10305 of this title.

(3) The district courts of the United States have jurisdiction to enforce a subpena issued under this section. Trial is in the district in which the proceeding is conducted. The court may punish a refusal to obey a subpena as a contempt of court.

(d)(1) In a proceeding, the Commission may take the testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding pending before the Commission may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding is at issue on petition and answer.

(2) If a witness fails to be deposed or to produce records under paragraph (1) of this subsection, the Commission may subpena the witness to take a deposition, produce the records, or both.

(3) A deposition may be taken before a judge of a court of the United States, a United States magistrate, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding.

(4) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

(5) The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

(6) The testimony of a witness who is in a foreign country may be taken by deposition before

an officer or person designated by the Commission or agreed on by the parties by written stipulation filed with the Commission. A deposition shall be filed with the Commission promptly.

(e) Each witness summoned before the Commission or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1345.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10321(a), (b).	49:12(1)(a) (1st sentence, 2d sentence less words after the semicolon, and last sentence words before 1st semicolon).	Feb. 4, 1887, ch. 104, § 12 (less (1)(a) (2d sentence words after semicolon and last sentence words after 1st semicolon and before last semicolon) and less (1)(b)), 24 Stat. 383; Mar. 2, 1889, ch. 382, § 3, 25 Stat. 858; Feb. 10, 1891, ch. 128, § 1, 26 Stat. 743; Feb. 28, 1920, ch. 91, § 415, 41 Stat. 484; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 9, 54 Stat. 910; Feb. 5, 1976, Pub. L. 94-210, § 207, 90 Stat. 42.
	49:15(16).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 15(16); added June 29, 1906, ch. 3591, § 4, 34 Stat. 589; restated June 18, 1910, ch. 309, § 12, 36 Stat. 551; Feb. 28, 1920, ch. 91, § 421, 41 Stat. 488; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Feb. 5, 1976, Pub. L. 94-210, § 202(c), 90 Stat. 36.
	49:20b(10).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 20b(10); added Apr. 9, 1948, ch. 646, § 32(a), 62 Stat. 166.
	49:304(a) (matter before (1), (6), and (7) (less words after semicolon)).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a) (matter before (1), (6), and (7) (less words after semicolon)); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 546; June 29, 1938, ch. 811, § 4, 52 Stat. 1237; Sept. 18, 1940, ch. 722, § 20(a), 54 Stat. 922.
	49:904(a) and (b) (less words after last semicolon).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 304(a) and (b) (less words after last semicolon); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 933.
	49:1003(a) and (e) (less words after last semicolon).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 403 (a) and (e) (less words after last semicolon); added May 16, 1942, ch. 318, § 1, 56 Stat. 285.
10321(c)(1).	49:12(1)(a) (last sentence words after semicolon), (2).	
10321(c)(2).	49:17(3) (last 42 words of 3d sentence).	Feb. 4, 1887, ch. 104, § 17(3) (last 42 words of 3d sentence), 24 Stat. 385; Mar. 2, 1889, ch. 382, § 6, 25 Stat. 861; Aug. 9, 1917, ch. 50, § 2, 40 Stat. 270; Feb. 28, 1920, ch. 91, § 432, 41 Stat. 493; Feb. 28, 1933, ch. 136, § 1, 47 Stat. 1368; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 12, 54 Stat. 913.
	49:305(h).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(h); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 548; Sept. 18, 1940, ch. 722, § 20(c)(2), 54 Stat. 922.
10321(c)(3).	49:12(3) 49:305(d) (related to Commission and employee board subpena power). 49:916(a). 49:1017(a).	
10321(d)(1)-(4).	49:12(4). 49:305(d) (related to depositions taken by Commission and employee boards). 49:916(a). 49:1017(a).	
10321(d)(5), (6).	49:12 (5), (6). 49:305(d) (related to depositions taken by Commission and employee boards). 49:916(a). 49:1017(a).	
10321(e).....	49:12(7). 49:18(1) (last sentence). 49:305(d) (related to depositions taken by Commission and employee boards). 49:916(a). 49:1017(a).	Feb. 4, 1887, ch. 104, § 18(1) (last sentence), 24 Stat. 383; restated Mar. 2, 1889, ch. 382, § 7, 25 Stat. 861; Feb. 28, 1920, ch. 91, § 433, 41 Stat. 493.

HISTORICAL AND REVISION NOTES—Continued

The section consolidates and restates the source provisions for clarity.

In subsection (a), the words "carry out" are substituted for "execute" and "enforce" in 49:12(1)(a) and 304(a)(6) and for "administer" in 49:304(a)(6), 904(a), and 1003(a) for clarity. In the second sentence, the words "foregoing" and "making of an order" from 49:15(16) are omitted as surplus.

In subsection (b), the words "The Commission may" are substituted for "The Commission shall have authority, in order to perform the duties and carry out the objects for which it was created" and "and the Commission shall keep itself informed as to the manner and method in which the same are conducted" from 49:12(1)(a) because the authority is discretionary. A similar change has been made for language in 49:304(a) (matter before paragraph (1)), 904(a), and 1003(a).

In subsections (c) and (d), the words after the semicolon in 49:305(c) are omitted as unnecessary in view of the restatement.

In subsection (c)(1), the word "records" is substituted for "books, papers, tariffs, contracts, agreements, and documents". The word "proceeding" is substituted for "proceeding", "matter", and "investigation" to eliminate redundancy.

In subsection (d)(1), the word "proceeding" is substituted for "proceeding or investigation" to eliminate redundancy.

In subsection (d)(3), the words "United States magistrate" are substituted to conform to title 28. The term "district court" is substituted for "circuit court" because of the Act of March 3, 1911, ch. 231, § 291, 36 Stat. 1167.

In subsection (d)(5), the word "oath" is substituted for "cautioned and sworn (or affirm, if he so request)" in view of section 1 of title 1. The words "to testify the whole truth, and shall be carefully examined" are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10341, 10344 of this title.

§ 10322. Initial decisions—nonrail proceedings

(a) When testimony is taken at a public hearing, an individual Commissioner, an employee board, or an employee delegated to act under section 10305 of this title shall issue an initial decision that includes a statement of reasons for the decision and an order. The decision and order shall be filed with the Interstate Commerce Commission. An initial decision becomes an action of the Commission on the 20th day after the initial decision is served on the interested parties, including persons referred to in section 10328(b) of this title if the proceeding involves a motor carrier, unless—

(1) an exception to the initial decision is filed by an interested party during that 20-day period or by the end of an extended period if authorized by the Commission, or a division or board designated by the Commission; or

(2) the Commission, or a division or board designated by the Commission, stays or postpones the initial decision.

(b) Before an initial decision of an individual Commissioner, a board, or an employee becomes an action of the Commission, a division or board designated by the Commission, or the Commission, may review the initial decision on its own initiative and shall review the initial decision if exception to it is filed under subsection (a)(1) of this section. An initial decision may be reviewed on the record on which it is based or by a further hearing. If an initial decision is reviewed, it is stayed or postponed pending final determination of the matter, and it is an action of the Commission only after the final determination is made.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1346.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10322.....	49:17(5).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 17(5); added Feb. 28, 1933, ch. 136, § 1, 47 Stat. 1368; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 12, 54 Stat. 913; Sept. 14, 1961, Pub. L. 87-247, § 1, 75 Stat. 517.
	49:305(h).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(h); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 548; Sept. 18, 1940, ch. 722, § 20(c), 54 Stat. 922.
	49:916(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 316(a); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946; Oct. 15, 1970, Pub. L. 91-452, § 243(b), 84 Stat. 931.
	49:1017(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(a); added May 16, 1942, ch. 318, § 1, 56 Stat. 297; Oct. 15, 1970, Pub. L. 91-452, § 243(c), 84 Stat. 931.

The section consolidates and restates the source provisions for clarity. The last sentence of 49:17(5) is omitted as unnecessary in view of section 10305 of the revised title. The words "initial decision" are substituted for "finding, report, or requirement" for consistency in view of subchapter II of chapter 5 of title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10323, 10327, 10343 of this title.

§ 10323. Rehearing, reargument, and reconsideration—nonrail proceedings

(a) The Interstate Commerce Commission may grant rehearing, reargument, or reconsideration of a decision that has become an action of the Commission. A party to the proceeding may apply for rehearing, reargument, or reconsideration under Commission regulations. Except as provided in subsection (b)(2) of this section, the Commission may limit the right to apply for rehearing, reargument, or reconsideration of a decision of the Commission or a division to a proceeding or class of proceedings involving issues of general transportation importance.

(b)(1) An application for rehearing, reargument, or reconsideration shall be considered and acted on—

(A) by the Commission if the action of the Commission was taken by it; or

(B) by the Commission, or by an appellate division designated by the Commission, if the initial decision was made by a division, individual Commissioner, board, or employee.

(2) An application for rehearing, reargument, or reconsideration shall be granted and referred to an appellate division for action if—

(A) the matter was delegated for an initial decision to an individual Commissioner, board, or employee;

(B) the application is filed by the 20th day after the date the initial decision became an action of the Commission under section 10322(a) of this title; and

(C) the matter has not been previously reviewed under section 10322(b) of this title.

(c) The Commission or an appellate division may change a decision of a division, an individual Commissioner, board, or employee if the decision appears unreasonable after rehearing, reargument, or reconsideration. However, the subsequent decision is subject to rehearing, reargument, or reconsideration under this section.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1346.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10323(a), (b).	49:17(6).	Feb. 4, 1887, ch. 104, § 17(6), (7), 24 Stat. 385; Feb. 28, 1933, ch. 136, § 1, 47 Stat. 1368; restated Sept. 18, 1940, ch. 722, § 12, 54 Stat. 915.
	49:305(h).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(h); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 548; Sept. 18, 1940, ch. 722, § 20(c), 54 Stat. 922.
	49:916(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 316(a); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946; Oct. 15, 1970, Pub. L. 91–452, § 243(b), 84 Stat. 931.
	49:1017(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(a); added May 16, 1942, ch. 318, § 1, 56 Stat. 297; Oct. 15, 1970, Pub. L. 91–452, § 243(c), 84 Stat. 931.
10323(c).....	49:17(7). 49:305(h). 49:916(a). 49:1017(a).	

In subsection (a), the words "a decision that has become an action of the Commission" are substituted for "After a decision, order, or requirement shall have been made by the Commission, a division, an individual Commissioner, or a board, or after an order recommended by an individual Commissioner or board shall have become the order of the Commission as provided in paragraph (5)" for clarity and for consistency with the restatement of 49:17(5) in section 10322 of the revised title. The words "subject to such limitations as may be established by the Commission as hereinafter authorized" are omitted as unnecessary in view of the restatement. The words "of the same" are omitted as surplus. The words "Rehearing, reargument, or reconsideration may be granted if sufficient reason therefor be made to appear" are omitted as surplus because the grant of power to the Commission is discretionary. The words "under Commission regulations" are substituted for the 2d sentence of the source provision because of consolidation and restatement of the general power to prescribe regulations in section 10321 of the revised title. The words "Except as provided in subsection (b)(2) of this section" are substituted for "Notwithstanding the foregoing provisions of this paragraph, any application for rehearing, reargument, or reconsideration of the matter assigned or referred to an individual Commissioner or board, under the provisions of paragraph (2)" for clarity because subsection (b)(2) contains the one situation governed by the overriding language of the source provision. The words "may limit" are substituted for "may . . . make or amend general rules or orders establishing limitations" for consistency because of the consolidation and restatement of the general power of the Commission to carry out the subtitle and to prescribe regulations in section 10321. The words "from time to time" are omitted as surplus. The word "decision" is substituted for "decision, order, or requirement" for consistency.

In subsection (c), the word "change" is substituted for "reverse, change, or modify" to eliminate redundancy. The word "unreasonable" is substituted for "unjust" for consistency and in view of section 706 of title 5. See the revision note to section 10101 of the revised title. The words "in any respect" are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10324, 10325, 10327 of this title.

§ 10324. Commission action

(a) Unless otherwise provided in this subtitle, the Interstate Commerce Commission may determine, within a reasonable time, when its actions, other than an action ordering the payment of money, take effect. However, an action of the Commission in a proceeding involving a motor carrier, a broker, a water carrier, or freight forwarder may not take effect for 30 days.

(b) An action of the Commission remains in effect under its own terms or until superseded. The Commission may change, suspend, or set aside any such action on notice. Notice may be given in a manner determined by the Commission. A court of competent jurisdiction may suspend or set aside any such action.

(c) An action of the Commission is enforceable unless—

(1) application for rehearing, reargument, or reconsideration is made under section 10323 of this title before the effective date of the action; or

(2) the Commission stays or postpones the action.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1347.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10324 (a), (b).	49:15(2).	Feb. 4, 1887, ch. 104, § 15(2), 24 Stat. 383; June 29, 1906, ch. 3591, § 4, 34 Stat. 589; June 18, 1910, ch. 309, § 12, 36 Stat. 551; restated Feb. 28, 1920, ch. 91, § 418, 41 Stat. 484; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Feb. 5, 1976, Pub. L. 94-210, § 302, 90 Stat. 48.
	49:16(6).	Feb. 4, 1887, ch. 104, § 16(6), 24 Stat. 384; Mar. 2, 1889, ch. 382, § 5, 25 Stat. 859; June 29, 1906, ch. 3591, § 5, 34 Stat. 590; June 18, 1910, ch. 309, § 13, 36 Stat. 534; Feb. 28, 1920, ch. 91, § 425, 41 Stat. 492.
	49:321(b), (d) (related to orders).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 221 (b), (d) (related to orders); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 563; Sept. 18, 1940, ch. 722, § 25(b), 54 Stat. 928.
	49:915(c), (d).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 315 (c), (d); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946.
	49:1016(b), (c).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 416 (b), (c); added May 16, 1942, ch. 318, § 1, 56 Stat. 296.
10324(c).....	49:17(8).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 17(8); added Sept. 18, 1940, ch. 722, § 12, 54 Stat. 913.
	49:305(h).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(h); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 548; Sept. 18, 1940, ch. 722, § 20(c), 54 Stat. 922.
	49:916(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 316(a); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946; Oct. 15, 1970, Pub. L. 91-452, § 243(b), 84 Stat. 931.
	49:1017(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(a); added May 16, 1942, ch. 318, § 1, 56 Stat. 297; Oct. 15, 1970, Pub. L. 91-452, § 243(c), 84 Stat. 931.

In subsection (b), the word "change" is substituted for "modify" for consistency.

In subsection (c), the words "made in accordance with the provisions of this section and the rules and regulations of the Commission" are omitted as surplus because of the reference to section 10323 of the revised title governing applications for rehearing, reargument, and reconsideration, and since the power to prescribe regulations is stated in section 10321 of the revised title. The words "is enforceable" are substituted for "pending disposition of the matter by the Commission or appellate division; but otherwise the making of such an application shall not excuse any person from complying with or obeying the decision, order, or requirement, or operate to stay or postpone the enforcement thereof" to eliminate surplus words and for clarity. The subsection is made generally applicable to all Commission action because of section 705 of title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10327 of this title.

§ 10325. Judicial review—nonrail proceedings

A civil action to enforce, enjoin, suspend, or set aside an action of the Interstate Commerce Commission taken by a division, individual Commissioner, employee board, or employee delegated to act under section 10305 of this title may be started in a court of the United States only—

(1) on denial of an application for rehearing, reargument, or reconsideration; or

(2) if the application is granted, after a rehearing, reargument, reconsideration or other disposition by the Commission or an appellate division under section 10323 of this title.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1347.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10325.....	49:17(10).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 17(10); added Sept. 18, 1940, ch. 722, § 12, 54 Stat. 913; Feb. 5, 1976, Pub. L. 94-210, § 303(a), 90 Stat. 48.
	49:305(h).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(h); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 548; Sept. 18, 1940, ch. 722, § 20(c), 54 Stat. 922.
	49:916(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 316(a); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946; Oct. 15, 1970, Pub. L. 91-452, § 243(b), 84 Stat. 931.
	49:1017(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(a); added May 16, 1942, ch. 318, § 1, 56 Stat. 297; Oct. 15, 1970, Pub. L. 91-452, § 243(c), 84 Stat. 931.

The words "action . . . taken by" are substituted for "decision, order, or requirement" for clarity and consistency. The words "with respect to any matter assigned or referred to him or it shall have been made and shall have been", "in whole or in part", and "under those provisions of law applicable in the case of suits" are omitted as surplus. The words "if the application is granted" are inserted for clarity.

§ 10326. Limitations in rulemaking proceedings related to rail carriers

(a) When, under section 553(e) of title 5, an interested person (including a governmental authority) petitions the Interstate Commerce Commission to begin a rulemaking proceeding in a matter related to a rail carrier providing transportation subject to this subtitle, the Commission, or a division, an individual Commissioner, an employee board, an employee delegated to act under section 10305 of this title, or another person authorized to act on behalf

of the Commission for any part of the proceeding, shall grant or deny that petition by the 120th day after receiving it. If the petition is granted, the Commission, or its delegate, shall begin an appropriate proceeding as soon as practicable. If the petition is denied, the reasons for the denial shall be published in the Federal Register.

(b)(1) If a petition is denied or action is not taken within the 120-day period under subsection (a) of this section, the petitioner may begin a civil action in an appropriate court of appeals of the United States for an order directing the Commission to begin a proceeding to take the action requested in the petition. A civil action under this subsection must be filed by the 60th day after the date of the denial or by the 60th day after the end of the 120-day period, whichever is appropriate.

(2) The court of appeals shall order the Commission to begin the action requested in the petition to the Commission if the court finds that the action requested in that petition is necessary and failure to take that action will result in the continuation of practices that are not consistent with the public interest or are not in accordance with this subtitle. The finding of the court must be based on a preponderance of the evidence in the record before the Commission or its delegate, or, if the civil action is based on a petition on which action was not taken, in a new proceeding before the court. The court may not require the Commission to take action under this subtitle other than to begin a rulemaking proceeding.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1348.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10326.....	49:13(6).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 13(6); added Feb. 5, 1976, Pub. L. 94-210, § 304(b), 90 Stat. 52.

The section restates the source provision for clarity. In subsection (a), the word "an employee delegated to act under section 10305 of this title" are substituted for "administrative law judge" for consistency in view of section 3105 of title 5 and because the delegation under section 10305 may only be made to an administrative law judge.

§ 10327. Commission action and appellate procedure in rail carrier proceedings

(a) Notwithstanding sections 10322, 10323, and 10324(c) of this title, this section applies to a matter before the Interstate Commerce Commission involving a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title. However, other sections of this subtitle related to action of the Commission in proceedings involving rail carriers supersede this section to the extent that they are inconsistent with the provisions of this section related to deadlines.

(b) A division, individual Commissioner, employee board, or employee delegated under section 10305 of this title to make an initial decision in a matter related to one of those rail carriers shall complete all evidentiary proceedings related to the matter by the 180th day after assignment of the matter. The initial decision shall be submitted to the Commission in writing. If evidence is submitted in writing or testimony is taken at a public hearing, the initial decision shall be submitted to the Commission in writing by the 120th day after completion of all evidentiary proceedings and shall include—

(1) specific findings of fact;

(2) specific and separate conclusions of law;

(3) an order; and

(4) justification of the findings of fact, conclusions of law, and order.

(c) The Commission, or a division designated by the Commission, may void the requirement of an initial decision under subsection (b) of this section and may require the matter to be considered by the Commission or that division on finding that the matter involves a question of Commission policy, a new or novel issue of law, or an issue of general transportation importance, or that it is required for the timely execution of its functions.

(d) In a proceeding under this section, after the parties have had at least an opportunity to submit evidence in written form, the Commission shall give them an opportunity for briefs, written statements, or conferences of the parties. A conference of the parties must be chaired by a division, an individual Commissioner, an employee board, an employee delegated to act under section 10305 of this title, or an employee designated by the Commission.

(e) Copies of an initial decision under subsection (b) of this section shall be served on the interested parties. An initial decision becomes an action of the Commission on the 20th day after it is served on the interested parties, unless—

(1) an interested party files an appeal during the 20-day period, or by the end of an additional period of not more than 20 days, if authorized by the Commission or division designated by the Commission; or

(2) the Commission stays or postpones the initial decision under subsection (g)(2) or (j) of this section within the period or additional period referred to in clause (1) of this subsection.

(f)(1) Before an initial decision becomes an action of the Commission, the Commission, or a division or board designated by the Commission, may review the initial decision on its own initiative, and shall review an initial decision if an appeal is filed under subsection (e)(1) of this section. However, a board may not decide an appeal from an initial decision if the appeal may be further appealed to the Commission.

(2) An initial decision may be reviewed on the record on which it is based or by a further hearing. If an initial decision is reviewed, it shall be stayed pending final determination of the matter, and it is an action of the Commission only after the final determination is made. If an appeal is filed under subsection (e)(1) of this section, the final determination shall be made by the 180th day after the appeal is filed.

(3) Review of, or appeal from, an initial decision shall be conducted under section 557 of

title 5. The Commission may prescribe rules limiting and defining the issues and pleadings on review under section 557(b) of that title.

(g)(1) The Commission may, at any time on its own initiative because of material error, new evidence, or substantially changed circumstances—

(A) reopen a proceeding;

(B) grant rehearing, reargument, or reconsideration of an action of the Commission; and

(C) change an action of the Commission.

An interested party may petition to reopen and reconsider an action of the Commission under this paragraph under regulations of the Commission.

(2) The Commission may grant a rehearing, reargument, or reconsideration of an action of the Commission that was taken by a division designated by the Commission if it finds that—

(A) the action involves a matter of general transportation importance; or

(B) the action would be affected materially because of clear and convincing new evidence or changed circumstances.

An interested party may petition for rehearing, reargument, or reconsideration of an action of the Commission under this paragraph under regulations of the Commission. The Commission may stay an action pending a final determination under this paragraph. The Commission shall complete reconsideration and take final action by the 120th day after the petition is granted.

(h) An action of the Commission under this section and an action of a designated division under subsection (c) of this section is effective on the 30th day after service on the parties to the proceeding unless the Commission provides for it to become effective on an earlier date.

(i) Notwithstanding this subtitle, an action of the Commission under this section and an action of a designated division under subsection (c) of this section is final on the date on which it is served, and a civil action to enforce, enjoin, suspend, or set aside the action may be filed after that date.

(j) The Commission may extend a time period established by this section for a period of not more than 90 days. The extension shall be granted if a majority of the Commissioners agree to it by public vote. The Commission shall send a written annual report to each House of Congress about extensions granted under this subsection. The report shall specify each extension granted (classified by the type of proceeding involved) together with the reasons for and duration of each extension.

(k) If an extension granted under subsection (j) of this section is not sufficient to allow for completion of necessary proceedings, the Commission may grant a further extension in an extraordinary situation if—

(1) at least 7 Commissioners agree to the further extension by public vote; and

(2) not later than the 15th day before expiration of the extension granted under subsection (j) of this section, the Commission submits a written report to the Congress that a further extension has been granted. The report shall include—

(A) a full explanation of the reasons for the further extension;

(B) the anticipated duration of the further extension;

(C) the issues involved in the matter before the Commission; and

(D) the names of personnel of the Commission working on the matter.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1348.)

AMENDMENT SUBSEQUENT TO MAY 15, 1978

Section 17(9)(f) of this title, from which subsec. (k) of this section was derived, was amended by Pub. L. 95–611, § 5, Nov. 8, 1978, 92 Stat. 3090, see section 17(9)(f) of this title. See also section 3(a) of Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1466, set out as a note preceding chapter 101 of this title.

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10327(a)	49:17(9)(i).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 17(9) (less (j)); added Feb. 5, 1976, Pub. L. 94–210, § 303(a), 90 Stat. 48; Oct. 19, 1976, Pub. L. 94–555, § 220(j), 90 Stat. 2630.
10327(b)	49:17(9)(b) (1st sentence).	
10327(c)	49:17(9)(b)(2d sentence).	
10327(d)	49:17(9)(a).	
10327(e)	49:17(9)(b) (less 1st and 2d sentences).	
10327(f)	49:17(9)(c).	
10327(g)(1).	49:17(9)(g).	
10327(g)(2).	49:17(9)(d) (less 1st sentence).	
10327(h)	49:17(9)(d) (1st sentence).	
10327(i)	49:17(9)(h).	
10327(j)	49:17(9)(e).	
10327(k)	49:17(9)(f).	

The section restates the source provision for clarity.

In subsections (b) and (d), the words "employee delegated under section 10305 of this title" are substituted for "an administrative law judge" for consistency because the delegation under that section may be made only to an administrative law judge.

In subsection (d), the word "section" is substituted for "chapter" for consistency since 49:17(9) by its own term applies only to matters involving rail carriers. See also, Report of the Committee on Conference (S. Rep. 94–595, 94th Cong.), 162.

In subsection (g)(1), the word "change" is substituted for "reverse, change, or modify" to eliminate redundancy. The words "for leave to request reopening" are omitted as surplus.

In subsection (i), the word "section" is substituted for "paragraph" to conform the subsection to the remainder of the section. The words "in a court of the United States pursuant to the provisions of law which are applicable to suits to enforce, enjoin, suspend, or set aside orders of the Commission" are omitted as surplus in view of the jurisdictional language of chapters 157 and 158 of title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11345 of this title.

§ 10328. Intervention

(a) Designated representatives of employees of a carrier may intervene and be heard in a

proceeding arising under this subtitle that affects those employees.

(b) Under regulations of the Interstate Commerce Commission, reasonable notice of, and an opportunity to intervene and participate in, a proceeding under this subtitle related to transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title that is, or is proposed to be, provided in a State shall be given to interested persons and to the authority of that State having jurisdiction to regulate transportation by motor vehicles in intrastate commerce on the highways of that State, or, if there is no such authority, to the chief executive officer of the State.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1350.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10328(a).....	49:17(12).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 17(12); added Sept. 18, 1940, ch. 722, § 12, 54 Stat. 913; Feb. 5, 1976, Pub. L. 94-210, § 303(a), 90 Stat. 48.
	49:305(h).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(h); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 548; Sept. 18, 1940, ch. 722, § 20(c), 54 Stat. 922.
	49:916(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 316(a); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946; Oct. 15, 1970, Pub. L. 91–452, § 243(b), 84 Stat. 931.
	49:1017(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(a); added May 16, 1942, ch. 318, § 1, 56 Stat. 297; Oct. 15, 1970, Pub. L. 91–452, § 243(c), 84 Stat. 931.
10328(b).....	49:305(e).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(e); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 550; restated June 20, 1938, ch. 811, § 7, 52 Stat. 1238; Sept. 18, 1940, ch. 722, § 20(c)(2), 54 Stat. 922.

In subsection (a), the words "this chapter and chapters 8 and 12 of this title" from 49:17(12) are omitted as surplus.

Subsection (b) restates the source provision for clarity and for consistency in view of section 10342(b) of the revised title. The words "an opportunity to intervene and participate in" are substituted for "opportunity for intervention in any such proceeding for the purpose of making representations to the Commission or for participating in a hearing, if a hearing is held, shall be afforded" as being more inclusive and for clarity in view of the restatement. The word "persons" is substituted for "parties" as being more accurate.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10322, 11344 of this title.

§ 10329. Service of notice in Commission proceedings

(a)(1) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall designate an agent in the District of Columbia, on whom service of notices in a proceeding before, and of actions of, the Commission may be made.

(2) A motor carrier, a broker, a water carrier, or a freight forwarder providing transportation or service subject to the jurisdiction of the Commission under subchapter II, III, or IV of chapter 105 of this title shall designate an agent by name and post office address on whom service of notices in a proceeding before, and of actions of, the Commission may be made.

(b) A designation under subsection (a) of this section shall be in writing and filed with the Commission. A motor carrier or broker providing transportation under a certificate or permit issued under this subtitle shall also file the designation with the authority of each State in which it operates having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of that State. The designation may be changed at any time in the same manner as originally made.

(c) Except as otherwise provided, notices of the Commission shall be served as follows:

(1) A notice of the Commission to a rail, express, sleeping car, or pipeline carrier is served on its designated agent at the office or usual place of residence in the District of Columbia of that agent. A notice of action of the Commission shall be served immediately on the agent or in another manner provided by law. If that carrier does not have a designated agent, service may be made by posting the notice in the office of the Secretary of the Commission.

(2) A notice to a motor carrier or broker is served personally or by mail on the motor carrier or broker or its designated agent. Service by mail on the designated agent is made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when the notice is served. If a motor carrier or broker does not have a designated agent, service may be made by posting a copy of the notice in the office of the secretary or clerk of the authority having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of the State in which the carrier or broker maintains headquarters and in the office of the Secretary of the Commission.

(3) A notice to a water carrier or freight forwarder is served personally or by mail on the water carrier or freight forwarder or its designated agent. Service by mail on the designated agent is made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when notice is served. If a water carrier or freight forwarder does not have a designated agent, service may be made by posting the notice in the office of the Secretary of the Commission.

(d) In a proceeding involving the lawfulness of classifications, rates, or practices of (1) a rail, express, sleeping car, or pipeline carrier that has not designated an agent under this section, or (2) a freight forwarder, service of notice of the Commission on an attorney in fact who filed the tariff for the carrier constitutes service of notice on the carrier.

(e) In a proceeding involving the lawfulness of classifications, rates, or practices—

(1) service of notice of the suspension of a tariff on an attorney in fact of a carrier or broker, except a freight forwarder, constitutes service of notice on the carrier or broker if that attorney filed the tariff and, if the carrier is a water carrier, the notice specifies the classifications, rates, or practices involved; and

(2) service of notice of the suspension of a joint tariff or schedule on a carrier or a broker, except a freight forwarder, that filed that tariff or schedule to which another carrier or broker is a party and, if the carrier is a water carrier, the notice specifies the classifications, rates, or practices involved, constitutes service of notice on all carriers or brokers that are parties to the joint tariff.

Service of notice under this subsection may be made by mail on that attorney or carrier at the address shown in the tariff.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1351.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10329(a)(1).	49:50 (related to notice less 22d and 23d and 68th-98th words and words after semicolon).	June 18, 1910, ch. 309, § 6, 36 Stat. 544; Oct. 22, 1913, ch. 32, § 1, 38 Stat. 219.
10329(a)(2).	49:321(a) (1st sentence less "in writing"), (d) (related to notice).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 221(a) and (d) (related to notice); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 563; Sept. 18, 1940, ch. 722, § 25(a), 54 Stat. 928; Aug. 2, 1949, ch. 379, § 14, 63 Stat. 487.
	49:915(a) (1st sentence less "in writing").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 315(a); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946; Aug. 9, 1949, ch. 379, § 19, 63 Stat. 489.
	49:1016(a) (1st sentence less "in writing").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 416(a); added May 16, 1942, ch. 318, § 1, 56 stat. 296.
10329(b).....	49:50 (related to notice 22d and 23d and 68th-98th words and less words after semicolon). 49:321(a) (1st and 2d sentences less "in writing" in 1st sentence). 49:915(a) (1st and 2d sentences less "in writing" in 1st sentence). 49:1016(a) (1st and 2d sentences less "in writing" in 1st sentence).	

HISTORICAL AND REVISION NOTES—Continued

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10329(c)(1).	49:16(5) (1st sentence).	Feb. 4, 1887, ch. 104, § 16(5), 24 Stat. 384; Mar. 2, 1889, ch. 382, § 5, 25 Stat. 859; June 29, 1906, ch. 3591, § 5, 34 Stat. 590; restated June 18, 1910, ch. 309, § 13, 36 Stat. 534; Feb. 28, 1920, ch. 91, § 425, 41 Stat. 492; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 11(b), 54 Stat. 913; Aug. 2, 1949, ch. 379, § 6, 63 Stat. 486.
	49:50 (related to notice less words before semicolon).	
10329(c)(2).	49:321(a) (3d, 4th, and 5th sentences).	
10329(c)(3).	49:915(a) (3d, 4th, and 5th sentences). 49:1016(a) (3d, 4th, and 5th sentences).	
10329(d).....	49:16(5) (2d sentence less proviso). 49:1016(a) (6th sentence).	
10329(e).....	49:16(5) (proviso of 2d sentence and last sentence). 49:321(a) (less 1st-5th sentences). 49:915(a) (less 1st-5th sentences).	

The section restates the source provisions for clarity.

In subsection (a), the word "shall" is substituted for "It shall be the duty of" in 49:50, 321(a), 915(a), and 1016(a) for clarity. The words "city of Washington" in 49:50 are omitted as surplus.

In subsection (c)(1), the words "with like effect as if made personally upon such" in 49:50 are omitted as surplus.

In subsections (d) and (e), the word "constitutes" is substituted for "shall be deemed to be due and sufficient" in 49:16(5), 321(a), 915(a), and 1016(a). The word "rates" is substituted for "rates, fares, charges" in view of the definition of "rates" in section 10102 of the revised title. The word "tariff" is substituted for "tariff" and "schedule" in view of the definition of "tariff" in section 10102 of the revised title. The words "but such manner of service shall not be considered as excluding service in any other manner authorized by law" in 49:321(a) and 915(a) are omitted as surplus in view of the introductory language of subsection (c) and the organization of subsections (d) and (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10927 of this title.

§ 10330. Service of process in court proceedings

(a) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall designate an agent in the District of Columbia on whom service of process in an action before a district court may be made. Except as otherwise provided, process in an action before a district court shall be served on the designated agent of that carrier at the office or usual place of residence in the District of Columbia of that agent.

If the carrier does not have a designated agent, service may be made by posting the notice in the office of the Secretary of the Commission.

(b) A motor carrier or broker providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, including a motor carrier or broker operating within the United States while providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, shall designate an agent in each State in which it operates by name and post office address on whom process issued by a court with subject matter jurisdiction may be served in an action brought against that carrier or broker. The designation shall be in writing and filed with the Commission and with the authority of each State in which the motor carrier or broker operates having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of that State. If a designation under this subsection is not made, service may be made on any agent of the carrier or broker within that State.

(c) A designation under this section may be changed at any time in the same manner as originally made.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1352.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10330(a).....	49:50 (related to process less 14 words before semicolon).	June 18, 1910, ch. 309, § 6 (related to process), 36 Stat. 544; Oct. 22, 1913, ch. 32, 38 Stat. 219, 220.
10330(b).....	49:321(c) (less 2d sentence), (d) (related to process).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 221(c), (d) (related to process); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 563; restated July 22, 1954, ch. 563, § 3, 68 Stat. 526.
10330(c).....	49:50 (related to process 14 words before semicolon). 49:321(c) (2d sentence).	

The section restates the source provisions for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10927 of this title.

SUBCHAPTER III—JOINT BOARDS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1671, 2001 of this title.

§ 10341. Jurisdiction

(a) The Interstate Commerce Commission may refer a matter related to motor carriers providing, or brokers for, transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, to a joint board established under section 10342 of this title for action. When the operation of a motor carrier or broker involves not more than 3 States, the Commission shall refer the following matters to a joint board for action when an opportunity for a proceeding is required or when the Commission finds that it is desirable:

(1) an application for a certificate, permit, or license.

(2) a suspension, change, or revocation of a certificate, permit, or license.

(3) an application for approval and authorization of a consolidation, merger, or acquisition of control or of an operating contract.

(4) a complaint about a violation by a motor carrier or broker of a requirement established under section 10321(a), 10525, 11101(b), or 11142(b) of this title.

(5) a complaint about rates of motor carriers or practices of brokers.

(b) Notwithstanding subsection (a) of this section, if the Commission is prevented by legal proceedings from referring a matter to a joint board, the Commission may determine the matter under subchapter II of this chapter.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1352.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10341.....	49:303(a)(4), 305(a) (1st and 2d sentences), (b) (2d sentence 13th-37th words).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §§ 203(a)(4), 205(a) (1st and 2d sentences), (b) (2d sentence 13th-37th words); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 548; June 29, 1938, ch. 811, § 6(a), 52 Stat. 1237; Sept. 18, 1940, ch. 722, § 20(c)(2)-(5), 54 Stat. 922; July 26, 1949, ch. 361, § 1, 63 Stat. 479.

The first sentence is substituted for 49:305(a) (2d sentence) and the words "and the Commission may, in its discretion, when operations of motor carriers or brokers conducted or proposed to be conducted involve more than three States" for clarity since the source provision only limits the discretionary power of the Commission when the matter involves not more than 3 States and concerns one of the enumerated items. The word "proceeding" is substituted for "hearing" for consistency in view of subchapter II of chapter 5 of title 5. The words "under subchapter II of chapter 105 of this title" are substituted for "as provided in section 17 of this title" to conform to the restatement. The words "*Provided, however,* That" are omitted as surplus. The words "section 10321(a), 10525, 11101(b), or 11142(b) of this title" are substituted for "section 304(a) of this title" to cite the corresponding revised sections.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10305, 10342, 10343 of this title.

§ 10342. Establishment

(a) The Interstate Commerce Commission may establish and abolish joint boards as necessary to carry out section 10341 of this title. Except as provided in this section, a joint board is composed of a member from each State in which transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title is, or is proposed to be,

provided. The Commission may appoint an individual nominated under subsection (b) of this section as a member of a joint board.

(b) The member of a joint board from a State shall be nominated by the State authority having jurisdiction to regulate intrastate transportation by motor vehicle on the highways of that State. If there is no such authority in that State or if that authority does not nominate a member when requested by the Commission, the chief executive officer of the State may nominate the member. If both that State authority and the chief executive officer of that State do not nominate a member when requested, the board is constituted without a member from that State if the Commission has appointed members for at least 2 other States to the board.

(c) When a matter required to be referred to a joint board involves the operation of a motor carrier in or through a place outside the United States, if only one State is involved or if only one State nominates an individual to be a member of the joint board, that State may nominate and the Commission may appoint not more than 3 members to the board.

(d) A substitution in the membership of a joint board may be made at any time in the same manner as an initial nomination and appointment under this section.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1353.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10342(a).....	49:305(a) (3d sentence less proviso), (b) (1st, 3d, 5th, and 12th sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(a) (3d sentence less proviso), (b) (1st, 3d, 4th-6th, 10th, 12th, and last sentences); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 548; Sept. 18, 1940, ch. 722, § 20(c)(2)-(4), 54 Stat. 922; July 26, 1949, ch. 361, § 1, 63 Stat. 479.
10342(b).....	49:303(a)(2).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 203(a)(2); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 544.
	49:305(b) (4th and 6th sentences).	
10342(c).....	49:305(b) (10th sentence).	
10342(d).....	49:305(b) (less 1st–12th sentences).	

In subsection (a) the 1st sentence is substituted for 49:305(b) (1st and 11th sentences) for clarity. The word "composed" is substituted for "consist" for consistency. The words "in which transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title" are substituted for "in which the motor carrier or brokerage operations involved" for consistency. The words "approved by it" are omitted as surplus.

In subsection (b), the words "State authority" are substituted for "the commission, board, or official (by whatever name designated in the laws of a State)" as being more inclusive. The words "having jurisdiction to regulate intrastate transportation by motor vehicles on the highways of that State" are substituted for "which, under the laws of any State in which any part of the service in interstate or foreign commerce regulated by this chapter is performed, has or may hereafter have jurisdiction to grant or approve certificates of public convenience and necessity or permits to motor carriers, or otherwise to regulate the business of transportation by motor vehicles, in intrastate commerce over the highways of such State" in 49:303(a)(2) for clarity and as being more inclusive. In view of that substitution, the definitions of "board" and "State board" are omitted as unnecessary. The words "does not" are substituted for "fails to make" for clarity. The words "chief executive officer of that State" are substituted for "Governor of such State" for consistency in view of the inclusion of the District of Columbia in the definition of "State" in section 10102 of the revised title. The words "if the Commission has appointed" are substituted for "if . . . shall have been nominated and approved by the Commission" as being more accurate since the Commission has the appointment power.

In subsection (c), the word "matter" is substituted for "proceeding" for consistency. The words "that State may nominate and the Commission may appoint" are substituted for "then the Commission, in such case, may receive from that State the nomination . . . and may appoint such nominees" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10341, 10343 of this title.

§ 10343. Powers

(a) When conducting a proceeding involving a matter referred under section 10341 of this title, a joint board may make an initial decision under section 10322 of this title. Subchapter II of this chapter applies to an initial decision of a joint board. However, a joint board may report to the Interstate Commerce Commission its conclusions on evidence received without making an initial decision. When a joint board makes a report instead of an initial decision, the Commission shall decide the matter. The Commission may consider the conclusions of the joint board in making its decision.

(b) A joint board may make an initial decision or report of its conclusions only by a majority vote. However, if only one member of the board participates in the proceeding, that member shall make the initial decision alone.

(c) When a member of a joint board does not participate in a proceeding referred to that board, after notice of the proceeding, the State from which that member was appointed waives its right to act in that proceeding. The waiver does not affect the duty or power of remaining members of the board to continue the proceeding and make an initial decision.

(d) In addition to decisions made under subsection (a) of this section, the Commission shall decide a matter referred to a joint board when—

(1) the authority of each State from which a member of the board may be appointed waives action on a matter referred to that board;

(2) a joint board does not act, or cannot agree, on a matter referred to it in 45 days after the matter is referred to it (or in another period authorized by the Commission); or

(3) a member is nominated for only one State, except as provided in section 10342(c) of this title.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1353.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10343(a).....	49:305(a) (less 1st-3d sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(a) (less 1st-3d sentences); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 549; June 29, 1938, ch. 811, § 6(b), 52 Stat. 1237; Sept. 18, 1940, ch. 722, § 20(c)(2)–(4), 54 Stat. 922.
10343(b).....	49:305(b) (7th sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(b) (7th–9th sentences); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 548; Sept. 18, 1940, ch. 722, § 20(c)(2)–(4), (d), 54 Stat. 922; restated July 26, 1949, ch. 361, § 1, 63 Stat. 479.
10343(c).....	49:305(b) (9th sentence).	
10343(d).....	49:305(b) (8th sentence).	

In subsection (a), the words "may make an initial decision under section 10322 of this title. Subchapter II of this chapter a plies to an initial decision of a joint board" are subst.tuted for "shall be vested with the same rights, duties, powers, and jurisdiction as are hereinbefore vested in members or examiners of the Commission to whom a matter is referred for hearing and the recommendation of an appropriate order thereon" and for 49:305(a) (5th sentence) for consistency in view of the restatement of 49:17 as made applicable to 49: ch. 8, by 49:305(h). The word "However" is substituted for "*Provided, however,* That" for clarity. The words "in its discretion" are omitted as surplus. The words "if any" are omitted as surplus. The words "may consider the conclusions . . . in making its decision" are substituted for "giving such weight to such conclusions as in its judgment the evidence may justify" for clarity.

In subsection (b), the word "However" is substituted for "*Provided, however,* That" for clarity. The word "proceeding" is substituted for "hearing" for clarity in view of subchapter II of chapter 103 of the revised title and subchapter II of chapter 5 of title 5. The words "shall constitute a quorum" are omitted as unnecessary in view of the restatement.

In subsection (c), the words "the State . . . waives its right to act in that proceeding" are substituted for "shall be considered to constitute, as to the matter referred, a waiver of action on the part of the State" for clarity. The words "if any" are omitted as surplus.

In subsection (d), the words "the Commission shall decide . . . when" are substituted for "then such matter shall be decided as in the case of any matter not required to be referred to a joint board" for clarity. The word "authority" is substituted for "governmental entity" for consistency.

§ 10344. Administration

(a) Meetings and procedures of joint boards shall be conducted under regulations of the Interstate Commerce Commission. The Commission may designate an employee appointed under section 3105 of title 5 to advise and assist a joint board.

(b) When practicable and when directed by the Commission, a proceeding involving a matter referred to a joint board shall be held at a place in the United States that is convenient to the parties to the proceeding.

(c) The members of joint boards and employees designated to advise and assist them under subsection (a) of this section may administer oaths, subpena witnesses and the production of records, and take depositions under section 10321 of this title related to matters referred to the boards.

(d) When carrying out this subtitle, members of joint boards shall receive an allowance for travel and subsistence expenses as the Commission shall provide.

(e) A member of a joint board may not have a pecuniary interest in, hold an official relation to, or own securities of, a carrier providing transportation by any mode.

(f) The Administrator of General Services shall assign space and facilities in the Interstate Commerce Commission building not required by the Commission for the use of the national organization of the State commissions and their representatives. The space and facilities shall be available for the use of joint boards and for members and representatives of those boards cooperating with the Commission or with another department, agency, or instrumentality of the United States Government. If suitable space is not available in the Interstate Commerce Commission building, the Administrator shall assign space in another building in convenient proximity to it.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1354.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10344(a).....	49:305(a) (3d sentence proviso), (b) (2d sentence 1st–12th words).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(a) (3d sentence proviso), (b) (2d sentence 1st–12th words and 11th sentence); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 548; Sept. 18, 1940, ch. 722, § 20(c)(2)–(5), 54 Stat. 922; July 26, 1949, ch. 361, § 1, 63 Stat. 479.
10344(b).....	49:305(c) (related to joint boards).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(c) (related to joint boards); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 549; Sept. 18, 1940, ch. 722, § 20(c)(2), 54 Stat. 922.
10344(c).....	49:305(d) (related to joint boards).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(d) (related to joint boards), (f) (4th sentence), and (i) (related to joint boards); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 550; Sept. 18, 1940, ch. 722, § 20(c)(2), 54 Stat. 922.
10344(d).....	49:305(b) (11th sentence).	
10344(e).....	49:305(i) (related to joint boards).	
10344(f).....	49:305(f) (4th sentence).	

In subsection (a), the first sentence is substituted for "The Commission shall prescribe rules governing meetings and procedure of joint boards" for clarity and consistency in view of the general power of the Commission to prescribe regulations under section 10321 of the revised title.

In subsection (b), the words "by rule or order" are omitted as surplus. The word "proceeding" is substituted for "hearings" for consistency.

In subsection (c), the words after the semicolon in the source provision are omitted as unnecessary in view of the restatement and because of part V of title 18.

In subsection (f), the words "Administrator of General Services" are substituted for "Government authority controlling the allocation of space" as being more precise. The words "department, agency, or instrumentality" are substituted for "Federal commission or department" for consistency and as being more precise.

USE OF GOVERNMENT TRANSPORTATION REQUESTS BY MEMBERS OF JOINT BOARDS

Provisions authorizing joint board members to use government transportation requests when traveling in connection with their duties as such were contained in the following Department of Transportation and Related Agencies Appropriation Acts:

Nov. 30, 1979, Pub. L. 96-131, title II, § 201, 93 Stat. 1034.
Aug. 4, 1978, Pub. L. 95-335, title II, § 201, 92 Stat. 446.
Aug. 2, 1977, Pub. L. 95-85, title II, § 201, 91 Stat. 413.
Aug. 14, 1976, Pub. L. 94-387, title II, § 201, 90 Stat. 1182.
Nov. 24, 1975, Pub. L. 94-134, title II, § 201, 89 Stat. 707.
Aug. 28, 1974, Pub. L. 93-391, title II, § 201, 88 Stat. 778.
Aug. 16, 1973, Pub. L. 93-98, title II, § 201, 87 Stat. 338.
Aug. 22, 1972, Pub. L. 92-398, title II, § 201, 86 Stat. 588.
Aug. 19, 1971, Pub. L. 92-74, title II, § 201, 85 Stat. 211.
Dec. 26, 1969, Pub. L. 91-168, title II, § 201, 83 Stat. 461.
Oct. 4, 1968, Pub. L. 90-550, title I, § 101, 82 Stat. 944.
Nov. 3, 1967, Pub. L. 90-121, title I, § 101, 81 Stat. 349.
Sept. 6, 1966, Pub. L. 89-555, title I, § 101, 80 Stat. 675.
Aug. 16, 1965, Pub. L. 89-128, title I, § 101, 79 Stat. 533.
Aug. 30, 1964, Pub. L. 88-507, title I, § 101, 78 Stat. 657.
Dec. 19, 1963, Pub. L. 88-215, title I, § 101, 77 Stat. 439.
Oct. 3, 1962, Pub. L. 87-741, title I, § 101, 76 Stat. 730.
Aug. 17, 1961, Pub. L. 87-141, title I, § 101, 75 Stat. 354.
July 12, 1960, Pub. L. 86-626, title I, § 101, 74 Stat. 435.
Sept. 14, 1959, Pub. L. 86-255, title I, § 101, 73 Stat. 509.
Aug. 28, 1958, Pub. L. 85-844, title I, § 101, 72 Stat. 1071.
June 29, 1957, Pub. L. 85-69, title I, § 101, 71 Stat. 233.
June 27, 1956, ch. 452, title I, § 101, 70 Stat. 346.
June 30, 1955, ch. 244, title I, § 101, 69 Stat. 207.
June 24, 1954, ch. 359, title I, § 101, 68 Stat. 284.
July 31, 1953, ch. 302, title I, § 101, 67 Stat. 308.
July 5, 1952, ch. 578, title I, § 101, 66 Stat. 404.
Aug. 31, 1951, ch. 376, title I, § 101, 65 Stat. 276.
Sept. 6, 1950, ch. 896, ch. VIII, title I, § 101, 64 Stat. 710.
Aug. 24, 1949, ch. 506, title I, § 101, 63 Stat. 645.
Apr. 20, 1948, ch. 219, title I, § 101, 62 Stat. 187.
July 30, 1947, ch. 359, title I, § 101, 61 Stat. 598.
Mar. 28, 1946, ch. 113, title I, § 101, 60 Stat. 71.
May 3, 1945, ch. 106, title I, § 101, 59 Stat. 120.
June 27, 1944, ch. 286, title I, § 101, 58 Stat. 373.
June 26, 1943, ch. 145, title I, § 101, 57 Stat. 183.
June 27, 1942, ch. 450, § 1, 56 Stat. 413.
Apr. 5, 1941, ch. 40, § 1, 55 Stat. 114.
Apr. 18, 1940, ch. 107, § 1, 54 Stat. 133.
Mar. 16, 1939, ch. 11, § 1, 53 Stat. 534.
May 23, 1938, ch. 259, § 1, 52 Stat. 420.
June 28, 1937, ch. 396, § 1, 50 Stat. 338.
May 14, 1937, ch. 179, 50 Stat. 136.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1671 of this title; title 47 section 410.

SUBCHAPTER IV—RAIL SERVICES PLANNING OFFICE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1613 of this title; title 45 sections 702, 712, 717.

§ 10361. Organization

The Rail Services Planning Office is an office in the Interstate Commerce Commission.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1355.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10361.....	45:715(a) (less words after comma in 2d sentence).	Jan. 2, 1974, Pub. L. 93-236, § 205(a) (less words after comma in 2d sentence), 87 Stat. 993; restated Feb. 5, 1976, Pub. L. 94-210, § 309, 90 Stat. 57.

In the section, the words "established as" are omitted as executed. 45:715(a) (words before the comma in second sentence) is omitted as surplus.

§ 10362. Duties

(a) In this section—

(1) "avoidable costs of providing transportation", "reasonable management fee", "reasonable return on the value", and "revenue attributable to the rail properties" have the same meanings as they have when used in section 744 of title 45.

(2) "avoidable cost of providing rail freight transportation" has the same meaning as it has when used in section 10905(b)(2)(A) of this title.

(b) The Rail Services Planning Office shall—

(1) assist the Interstate Commerce Commission in studying and evaluating proposals, submitted to the Commission under subchapter III of chapter 113 of this title for a merger, consolidation, unification, or coordination project, joint use of tracks or other facilities, or acquisition or sale of assets involving a rail carrier subject to this subtitle;

(2) assist the Commission in developing, with respect to economic regulation of transportation, policies likely to result in a more competitive, energy-efficient, and coordinated transportation system using each mode of transportation to its maximum advantage to meet the transportation needs of the United States;

(3) assist States and local and regional transportation authorities in deciding whether to provide rail transportation continuation subsidies to continue in operation particular rail properties, by establishing criteria for determining whether particular rail properties

are suitable for rail transportation continuation subsidies;

(4) conduct continuously an analysis of the national rail transportation needs, evaluate the policies, plans, and programs of the Commission on the basis of the analysis, and advise the Commission of the results of the evaluation;

(5) maintain regulations that contain—

(A) standards for the computation of subsidies for rail passenger service (except passenger transportation compensation disputes subject to the jurisdiction of the Commission under section 562(a) of title 45) that are consistent with the compensation principles described in the final system plan established under the Regional Rail Reorganization Act of 1973 (87 Stat. 985), as amended, and which avoid cross-subsidization among commuter, intercity, and freight rail transportation; and

(B) standards for determining emergency commuter rail passenger transportation operating payments under section 1613 of this title;

(6) maintain, and from time to time revise and republish after a proceeding under section 553 of title 5, standards for determining the revenue attributable to the rail properties, the avoidable costs of providing transportation, a reasonable return on the value, and a reasonable management fee;

(7) maintain regulations that—

(A) develop an accounting system permitting the collection and publication by the Consolidated Rail Corporation or by profitable rail carriers providing transportation over lines scheduled for abandonment, of information necessary for an accurate determination of the attributable revenues, avoidable costs, and operations of light density lines as operating and economic units; and

(B) determine the avoidable cost of providing rail freight transportation; and

(8) carry out other duties conferred on the Office by law.

(c) The criteria referred to in subsection (b)(3) of this section shall provide that rail properties are suitable for rail transportation continuation subsidies if the cost of the required subsidy to the taxpayers for the properties each year is less than—

(1) the cost of termination of rail transportation over the properties measured by increased fuel consumption and operational costs for alternative modes of transportation;

(2) the cost to the gross national product in terms of reduced output of goods and services;

(3) the cost of relocating or assisting, through unemployment, retraining, and welfare benefits, individuals and firms adversely affected if the rail transportation is terminated; and

(4) the cost to the environment measured by damage caused by increased pollution.

(d) The Office may at any time revise and republish the standards and regulations required by this section to incorporate changes made necessary by the accounting system developed under subsection (b)(7) of this section.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1355.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10362(a)(1).	645:715(d)(6).	Jan. 2, 1974, Pub. L. 93–236, § 205(d), (e), 87 Stat. 994; Feb. 28, 1975, Pub. L. 94–5, § 3, 89 Stat. 7; restated Feb. 5, 1976, Pub. L. 94–210, § 309, 90 Stat. 58.
10362(a)(2).	45:715(e)(1)(B).	
10362(b)(1)–(6).	45:715(d)(1), (2), (3) (less words after 2d comma), (4)–(6).	
10362(b)(7).	45:715(e) (less last sentence of par. 1).	
10362(b)(8).	45:715(d) (introductory words before comma).	
10362(c).....	45:715(d)(3) (words after 2d comma).	
10362(d).....	45:715(e)(1) (last sentence), (2).	

In the section, the word "transportation" is substituted for "service" and "services" for consistency in the subchapter and the revised title.

In subsection (b)(1), the words "rail carrier subject to this subtitle" are substituted for "common carrier by railroad subject to part I of such Act" to conform to the revised title.

In subsection (b)(5), the words "maintain regulations" have been substituted for the words "within 180 days after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1976, issue additional regulations, after conducting a proceeding in accordance with the provisions of section 553 of title 5, United States Code" since the deleted words are executed.

In subsection (b)(6), the words "as those phrases are used in section 304 of this Act" are omitted since subsection (a) of the section has been inserted providing for section definitions.

In subsection (b)(7), the words "maintain regulations" are substituted for the words "Within 270 days after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1976, the Office shall issue additional regulations, after conducting a proceeding in accordance with section 553 of title 5, United States Code" since the deleted words are executed. The words "as that phrase is used in section 1a(6)(a)(ii)(A) of the Interstate Commerce Act" are omitted since subsection (a) of the section has been inserted providing for section definitions.

45:715(d)(7) and (e)(2) are omitted as executed.

REFERENCES IN TEXT

The Regional Rail Reorganization Act of 1973 (87 Stat. 985), as amended, referred to in subsec. (b)(5), is Pub. L. 93–236, Jan. 2, 1974, 87 Stat. 985, as amended, which is classified principally to chapter 16 (§ 701 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 45 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1613 of this title; title 45 section 744.

§ 10363. Director

(a) The Director is the head of the Rail Services Planning Office and is responsible for administering and carrying out the duties of the Office.

(b) The Director is appointed for a term of 6 years by the Chairman of the Interstate Commerce Commission with the concurrence of at least 5 members of the Commission. The Director may be removed by the Commission only for cause.

(c) The Director is appointed without regard to those provisions of title 5 governing appointments in the competitive service and is paid without regard to chapter 51 and subchapter III of chapter 53 of title 5. However, the annual rate of basic pay of the Director may not exceed the rate for GS–18.

(d) The Director is subject to the direction of, and shall report to, a Commissioner or the Chairman, as designated by the Chairman.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1356.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10363(a)–(c).	45:715(a) (words following comma in 2d sentence), (b).	Jan. 2, 1974, Pub. L. 93–236, § 205(a) (words following comma in 2d sentence), (b), (c) (first 2 sentences), 87 Stat. 993; restated Feb. 5, 1976, Pub. L. 94–210, § 309, 90 Stat. 57.
10363(d).....	45:715(c) (1st 2 sentences).	

In subsection (a), the words "from the date he takes office" and "functions and" are omitted as surplus.

In subsection (c), the last sentence conforms with title 5. The word "maximum" is omitted as surplus because GS–18 only has one rate.

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (c), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

GS–18, referred to in subsec. (c), is contained in the General Schedule which is set out under section 5332 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10364 of this title.

§ 10364. Powers

(a) With the concurrence of the Commissioner designated under section 10363(d) of this title or, if the Director of the Rail Services Planning Office and the Commissioner disagree (and that Commissioner is not the Chairman), with the concurrence of the Chairman of the Commission, the Director may enter into agreements or other transactions necessary to carry out the duties of the Office. The transactions may be entered into with any person, including a governmental authority, and without regard to section 5 of title 41.

(b) On written request of the Director for assistance, each department, agency, and instrumentality of the United States Government shall consider the request, and may furnish assistance the Director considers necessary to carry out the duties of the Office. Assistance may be furnished on a reimbursable or nonreimbursable basis. Assistance includes the transfer of an officer or employee, with the consent, and without prejudice to the position and rating, of the officer or employee.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1356.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10364.....	45:715(c) (less 1st 2 sentences).	Jan. 2, 1974, Pub. L. 93–236, § 205(c) (less first 2 sentences), 87 Stat. 993; restated Feb. 5, 1976, Pub. L. 94–210, § 309, 90 Stat. 58.

In subsection (b), the words "department, agency, and instrumentality of the United States Government" are substituted for the words "department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States" to eliminate redundancy and to conform to standard terms used in the restatement and in title 5.

SUBCHAPTER V—OFFICE OF RAIL PUBLIC COUNSEL

§ 10381. Organization

The Office of Rail Public Counsel is an independent office affiliated with the Interstate Commerce Commission.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1357.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10381.....	49:26b(1).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 27(1); added Feb. 5, 1976, Pub. L. 94–210, § 304(a), 90 Stat. 51.

The words "shall be established", "new", and "within 60 days after the date of enactment of this section" are omitted as executed. The second sentence of 49:26b(1) is omitted as surplus.

§ 10382. Duties; standing

(a) The Office of Rail Public Counsel—

(1) may petition the Interstate Commerce Commission to begin a proceeding on a matter within the jurisdiction of the Commission involving a rail carrier subject to this subtitle;

(2) may seek judicial review of Commission action on a matter involving a rail carrier providing transportation subject to this subtitle, to the extent, and on the same basis, that a person may seek judicial review;

(3) shall solicit, study, evaluate, and present before an informal or formal proceeding of the Commission, the views of those communities and users of rail transportation affected by a proceeding begun by, or pending before, the Commission, when the Director of the Office determines, for whatever reason (such as size or location), that any such community or user might not otherwise be represented adequately at the proceeding;

(4) shall—

(A) before the Commission and other departments, agencies, and instrumentalities

of the United States Government when the policies and activities of any such department, agency, or instrumentality affect rail transportation subject to the jurisdiction of the Commission, evaluate and represent the public interest in safe, efficient, reliable, and economical rail transportation; and

(B) assist in constructively representing that public interest by other means;

(5) in carrying out its duties under clauses (1)–(4) of this subsection, shall assist the Commission in developing a public interest record in proceedings before the Commission; and

(6) shall carry out other duties conferred on the Office by law.

(b) The Office has standing as a party to any informal or formal proceeding that is pending or begun before the Commission involving a rail carrier providing transportation subject to this subtitle.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1357.)

AMENDMENT SUBSEQUENT TO MAY 15, 1978

Section 26b(4) of this title, from which this section was derived, was amended by Pub. L. 95–620, title VIII, § 804, Nov. 9, 1978, 92 Stat. 3348, see section 26b(4) of this title. See also section 3(a) of Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1466, set out as a note preceding chapter 101 of this title.

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10382(a)(1)–(4).	49:26b(4)(b)–(e).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 27(4); added Feb. 5, 1976, Pub. L. 94–210, § 304(a), 90 Stat. 51.
10382(a)(5).	49:26b(4) (last sentence).	
10382(a)(6).	49:26b(4) (introductory words preceding comma).	
10382(b).....	49:26b(4)(a).	

The section restates the source provisions for clarity and consistency in the revised title.

§ 10383. Director

(a) The Director is the head of the Office of Rail Public Counsel and is responsible for administering and carrying out the duties of the Office.

(b) The Director is appointed by the President, by and with the advice and consent of the Senate, for a term of 4 years.

(c) The Director is paid without regard to chapter 51 and subchapter III of chapter 53 of title 5. However, the annual rate of basic pay of the Director may not exceed the rate for GS–18.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1357.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10383(a).....	49:26b(2)(a) (1st sentence), (b) (2d sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 27(2); added Feb. 5, 1976, Pub. L. 94–210, § 304(a), 90 Stat. 51.
10383(b).....	49:26b(2)(a) (2d sentence), (b) (1st sentence).	
10383(c).....	49:26b(2)(b) (last sentence).	

In subsection (a), the words "and functions" are omitted as surplus.

In subsection (b), the words "appointed . . . without regard to the provisions of title 5, United States Code, governing appointments in the competitive service" are omitted as surplus in view of section 2102(a)(1) of title 5.

In subsection (c), the last sentence conforms with title 5. The word "maximum" is omitted as surplus because GS–18 only has one rate.

REFERENCES IN TEXT

GS–18, referred to in subsec. (c), is contained in the General Schedule which is set out under section 5332 of Title 5, Government Organization and Employees.

§ 10384. Office staff

The Director of the Office of Rail Public Counsel may—

(1) appoint and fix the pay of employees of the Office; and

(2) procure under section 3109 of title 5 the temporary or intermittent services of experts and consultants.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1358.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10384.....	49:26b(3) (1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 27(3) (1st sentence); added Feb. 5, 1976, Pub. L. 94–210, § 304(a), 90 Stat. 51.

In clause (1), the words "assign the duties of" are omitted as surplus in view of section 10383(a) of the revised title.

§ 10385. Powers

(a) Without regard to section 5 of title 41, the Director of the Office of Rail Public Counsel may enter into agreements or other transactions necessary to carry out the duties of the Office.

(b) On request of the Director for information, each department, agency, and instrumentality of the United States Government may furnish the information requested.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1358.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10385	49:26b(3) (2d and 3rd sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 27(3) (2d and 3rd sentences); added Feb. 5, 1976, Pub. L. 94-210, § 304(a), 90 Stat. 51.

In subsection (a), the words "contracts, leases, cooperative" and "his functions and" are omitted as surplus.

In subsection (b), the words "bureau, office, or other entity of the Commission and" and "and data" are omitted as surplus.

§ 10386. Reports

The Director of the Office of Rail Public Counsel shall submit each month to the Chairman of the Interstate Commerce Commission a report on the activities of the Office for the preceding month. In its annual report to Congress, the Commission shall include its evaluation and recommendations with respect to the activities, accomplishments, and shortcomings of the Office.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1358.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10386	49:26b(3) (last sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 27(3) (last sentence); added Feb. 5, 1976, Pub. L. 94-210, § 304(a), 90 Stat. 51.

§ 10387. Budget requests and estimates

The Office of Rail Public Counsel shall submit its budget requests and budget estimates concurrently to Congress and to the President.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1358.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10387	49:26b(5).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 27(5); added Feb. 5, 1976, Pub. L. 94-210, § 304(a), 90 Stat. 52.

§ 10388. Authorizations of appropriations

There is authorized to be appropriated to the Office of Rail Public Counsel to carry out this subchapter not to exceed $1,200,000 for the fiscal year ending September 30, 1980.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1358; Pub. L. 96-73, title III, § 301, Sept. 29, 1979, 93 Stat. 557.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10388	49:26b(6).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 27(6); added Feb. 5, 1976, Pub. L. 94-210, § 304(a), 90 Stat. 52; Feb. 15, 1978, Pub. L. 95-231, § 1, 92 Stat. 29.

The words "not to exceed $500,000 for the fiscal year ending June 30, 1976, not to exceed $500,000 for the fiscal year transition period ending September 30, 1976, not to exceed $2,000,000 for the fiscal year ending September 1, 1977, and" are omitted as executed.

AMENDMENTS

1979—Pub. L. 96-73 authorized appropriation of $1,200,000 for fiscal year ending Sept. 30, 1980, and deleted appropriation authorization of $1,000,000 for fiscal year ending Sept. 30, 1978.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-73 effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73, set out as an Effective Date of 1979 Amendment note under section 501 of Title 45, Railroads.

CHAPTER 105—JURISDICTION

SUBCHAPTER I—RAIL, RAIL-WATER, EXPRESS, AND PIPELINE CARRIER TRANSPORTATION

Sec.
10501. General jurisdiction.
10502. Express carrier transportation.
10503. Railroad and water transportation connections and rates.
10504. Exempt rail mass transportation.
10505. Authority to exempt rail carrier transportation.

SUBCHAPTER II—MOTOR CARRIER TRANSPORTATION

10521. General jurisdiction.
10522. Exempt transportation between Alaska and other States.
10523. Exempt motor vehicle transportation in terminal areas.
10524. Transportation furthering a primary business.
10525. Exempt motor carrier transportation entirely in one State.
10526. Miscellaneous motor carrier transportation exemptions.

SUBCHAPTER III—WATER CARRIER TRANSPORTATION

10541. General jurisdiction.
10542. Exempt bulk transportation.
10543. Exempt incidental water transportation.
10544. Miscellaneous water carrier transportation exemptions.

SUBCHAPTER IV—FREIGHT FORWARDER SERVICE

10561. General jurisdiction.
10562. Exempt freight forwarder service.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 10701, 10702, 10703, 10705, 10706, 10721, 10723, 10724, 10741, 10747, 10749, 10761, 10762, 10764, 10765, 11141, 11348, 11703, 11705, 11706, 11902, 11903, 11910, 11915 of this title.

SUBCHAPTER I—RAIL, RAIL-WATER, EXPRESS, AND PIPELINE CARRIER TRANSPORTATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1654, 10102, 10327, 10329, 10330, 10523, 10541, 10543, 10544, 10701, 10703, 10704, 10705, 10706, 10707, 10709, 10721, 10722, 10723, 10724, 10725, 10726, 10727, 10728, 10729, 10730, 10731, 10741, 10742, 10745, 10746, 10748, 10750, 10762, 10763, 10764, 10765, 10781, 10783, 10784, 10786, 10901, 10902, 10903, 10904, 10907, 10908, 10909, 10923, 10930, 10933, 11103, 11104, 11105, 11121, 11124, 11125, 11126, 11128, 11141, 11143, 11144, 11301, 11321, 11323, 11342, 11343, 11344, 11345, 11346, 11350, 11501, 11502, 11503, 11504, 11701, 11702, 11705, 11706, 11707, 11710, 11901, 11904, 11905, 11907, 11908, 11909, 11910, 11914 of this title; title 26 sections 48, 281, 3231, 7701; title 29 section 213; title 33 sections 1507, 1512; title 45 sections 231, 351, 546, 546a, 561, 661.

§ 10501. General jurisdiction

(a) Subject to this chapter and other law, the Interstate Commerce Commission has jurisdiction over transportation—

(1) by rail carrier, express carrier, sleeping car carrier, water common carrier, and pipeline carrier that is—

(A) only by railroad;

(B) by railroad and water, when the transportation is under common control, management, or arrangement for a continuous carriage or shipment; or

(C) by pipeline or by pipeline and railroad or water when transporting a commodity other than water, gas, or oil; and

(2) to the extent the transportation is in the United States and is between a place in—

(A) a State and a place in another State;

(B) the District of Columbia and another place in the District of Columbia;

(C) a State and a place in a territory or possession of the United States;

(D) a territory or possession of the United States and a place in another such territory or possession;

(E) a territory or possession of the United States and another place in the same territory or possession;

(F) the United States and another place in the United States through a foreign country; or

(G) the United States and a place in a foreign country.

(b) The Commission does not have jurisdiction under subsection (a) of this section over—

(1) the transportation of passengers or property, or the receipt, delivery, storage, or handling of property, entirely in a State (other than the District of Columbia) and not transported between a place in the United States and a place in a foreign country except as otherwise provided in this subtitle; or

(2) transportation by a water common carrier when that transportation would be subject to this subchapter only because the water common carrier absorbs, out of its port-to-port water rates or out of its proportional through rates, a switching, terminal, lighterage, car rental, trackage, handling, or other charge by a rail carrier for services in the switching, drayage, lighterage, or corporate limits of a port terminal or district.

(c) This subtitle does not affect the power of a State, in exercising its police power, to require reasonable intrastate transportation by carriers providing transportation subject to the jurisdiction of the Commission under this subchapter unless the State requirement is inconsistent with an order of the Commission issued under this subtitle or is prohibited under this subtitle.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1359.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10501(a) (introductory words), (1).	49:1(1)(a), (b), (2) (through 1st comma).	Feb. 4, 1887, ch. 104, § 1(1), (2), 24 Stat. 379; June 29, 1906 ch. 3591, § 1, 34 Stat. 584; June 18, 1910, ch. 309, § 7, 36 Stat. 544, 545; restated Feb. 28, 1920, ch. 91, § 400, 41 Stat. 474; June 19, 1934, ch. 652, § 602(b), 48 Stat. 1102; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Aug. 12, 1958, Pub. L. 85-625, § 3, 72 Stat. 570; Aug. 4, 1977, Pub. L. 95-91, § 306, 91 Stat. 581.
10501(a)(2).	49:1(1) (words after last comma and words following cl. (b)), (2) (words between 1st and 2d commas).	
10501(b).....	49:1(2) (2d comma through period).	
10501(c).....	49:1(17)(a) (proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(17)(a) (proviso); added Feb. 28, 1920, ch. 91, § 402, 41 Stat. 477; Sept. 18, 1940, ch. 722, § 4(b), 54 Stat. 901.

In the introductory matter of subsection (a), before clause (1), the words "Subject to this chapter and other provisions of law" are inserted to inform the reader that other sections of the chapter and subtitle qualify the grant of jurisdiction to the Interstate Commerce Commission under the section. The words "the Interstate Commerce Commission has jurisdiction" are substituted for "The provisions of this chapter shall apply to" in 49:1 (1) and (2) to eliminate surplus language and for clarity because the intent of the words is to grant the Commission jurisdiction. The words "over transportation" are substituted for the words "to common carriers engaged in" in 49:1(1) and "to such transportation of passengers and property" in 49:1(2) to eliminate redundancy and for consistency with the other general jurisdictional statements at the beginning of each of the subchapters of chapter 105 of the revised title, giving the Commission jurisdiction over transportation.

In subsection (a)(1), before clause (A), the words "rail carrier, express carrier, sleeping car carrier, water common carrier, and pipeline carrier" are substituted for "common carriers" for clarity and because a definition of "common carrier" has been adopted for the subtitle that is broader and includes common carriers other than those to which 49:1 (1) and (2) apply.

In subsection (a)(1)(A), the word "only" is substituted for "wholly" for clarity.

In subsection (a)(1)(B), the word "partly" is omitted as surplus.

In subsection (a)(1)(C), the words "natural or artificial" in 49:1(1)(b), before "gas" are omitted as surplus.

The word "or" is substituted for "and" in the phrase "except water and . . . gas" in 49:1(1)(b), for clarification because the exemption does not require the pipeline transportation of both water and gas before the exception applies. The exclusion of pipeline transportation of oil from the jurisdiction of the Commission is inserted in view of section 306 of the Department of Energy Organization Act (Pub. L. 95–91), transferring the functions of the Commission related to transporting oil by pipeline to the Department of Energy. The conferees of the 2 Houses explain in their joint statement that the transfer is intended to include "pipeline transportation of crude and refined petroleum and petroleum byproducts, derivatives or petrochemicals." See House Report 95–539, page 69.

In subsection (a)(2)(A), the words "District of Columbia" are omitted in view of the definition of "State" in section 10102 of the revised title.

In subsection (b)(1), the words "a State (other than the District of Columbia)" are inserted to exclude the District of Columbia from the jurisdictional exemption in view of 49:1(2) that does not now exempt the District of Columbia but would become exempt, but for the exclusion, as the result of the definition of "State" adopted for the revised title. The words "except as otherwise provided in this subtitle" are inserted for clarity.

In subsection (b)(2), the words "passengers or property" are omitted as unnecessary in view of the definition of "transportation" that applies to the subtitle.

In subsection (c), the words "does not affect" are substituted for "nothing . . . shall impair or affect" for clarity and to eliminate redundancy. The word "power" is substituted for "right" for clarity and consistency. The words "freight and passenger service" are omitted as surplus. The word "unless" is substituted for "except insofar" and "except" for clarity. The word "lawful" is omitted as surplus. The words "just and" are omitted for consistency with other provisions of the revised title. See the revision note to section 10101 of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11126 of this title.

§ 10502. Express carrier transportation

The Interstate Commerce Commission has jurisdiction under this subchapter, and not under subchapter II or III of this chapter, over transportation of an express carrier—

(1) by motor vehicle, to the extent the transportation was subject to the jurisdiction of the Commission on September 18, 1940, under part I of the Interstate Commerce Act (24 Stat. 379), as amended; and

(2) by water in providing express transportation.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1360.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10502(1).....	49:303(a)(14) (words after 2d comma).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 203(a)(14) (words after 2d comma); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 544; restated Sept. 18, 1940, ch. 722, § 18(a), 54 Stat. 920.
10502(2).....	49:902(d) (words after 1st comma).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 302(d) (words after 1st comma); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 930.

The section restates the source provisions for clarity and as a result of the codification of the jurisdictional provisions in chapter 105 of the revised title.

In clause (2), the word "transportation" is substituted for "business" for consistency and because the Interstate Commerce Commission has jurisdiction over transportation.

REFERENCES IN TEXT

Part I of the Interstate Commerce Act, referred to in par. (1), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapter 1 (§ 1 et seq.) of this title, was repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, and is now covered by this subchapter.

§ 10503. Railroad and water transportation connections and rates

(a) When a rail carrier and a water common carrier may or do provide jointly, transportation, not entirely in one State from a place in the United States to another place in the United States, even if part of the transportation is outside the United States, the Interstate Commerce Commission has the following jurisdiction over that transportation:

(1) To establish a physical connection between the railroad lines of the rail carrier and the dock at which an interchange is to be made, the Commission may—

(A) require the rail carrier to make a suitable connection between its lines and tracks that have been constructed from the dock to the limits of the railroad right-of-way;

(B) subject to the same restrictions on findings of public convenience and necessity and other matters that are imposed on construction under sections 10901, 10902, and 10907 of this title, require the rail carrier or water common carrier, or both, to construct to the dock at least one track connecting with the lines of the rail carrier;

(C) determine and prescribe the conditions under which a connecting track is to be operated; and

(D) in the construction or operation of the track, determine the sum to be paid to, or by, either carrier.

(2) The Commission may—

(A) prescribe proportional rates, maximum proportional rates, minimum proportional rates, or maximum and minimum proportional rates, of a rail carrier to and from the ports to which the passengers or property is transported by the water common carrier; and

(B) determine the passengers, property, vessels, and on which conditions those rates apply.

In this paragraph, "proportional rates" means those rates that differ from the corresponding local rates to and from a port and apply only to passengers or property brought to the port or carried from the port by a water common carrier.

(b) The Commission may act under this section only after a full hearing. An order entered as the result of an action may be conditioned on giving security for the payment of an amount of money or the discharge of an obligation that is required to be paid or discharged under that order.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1360.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10503(a).....	49:6(11).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 6(11); added Aug. 24, 1912, ch. 390, § 11 (5th par.), 37 Stat. 568; Feb. 28, 1920, ch. 91, §§ 409, 412, 413, 41 Stat. 483; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 8(c), 54 Stat. 910.
10503(b).....	49:51 (related to 49:6(11)).	Aug. 24, 1912, ch. 390, § 17 (last par. related to § 6), 31 Stat. 568.

In the introductory matter of subsection (a), before paragraph (1), the words "passengers or property" are omitted as unnecessary in view of the definition of transportation that includes passengers and property. The words "the limits of" are omitted as surplus. The words "rail carrier and a water common carrier" are substituted for "by rail and water . . . by a common carrier or carriers" to eliminate redundancy and for consistency with 49:1 (1) and (2) that have used the terms "rail carrier" and "water carrier" (meaning "water common carrier") since the enactment of the original provision in 1912. The word "jointly" is inserted for clarity. The words "even if part of the transportation is outside the United States" is substituted for "through the Panama Canal or otherwise" as being more precise. See *United States* v. *New York Central R.R.*, 272 U.S. 457, 1926; *Penn. R.R. Co.* v. *United States*, 55 F. Supp. 473, 484, D.C.N.J., 1943, reversed in part on other grounds, 323 U.S. 612, 1945. The words "in the following particulars, in addition to the jurisdiction given by this chapter" are omitted as surplus. The words "and of the carriers" are omitted as surplus and for consistency with other jurisdictional statements of chapter 105 of the revised title.

In subsection (a)(2), the words "passengers or property" are substituted for "traffic" for consistency with the definition of transportation.

In subsection (a)(2)(A), the word "transported" is substituted for "brought, or from which the passengers or property is taken" for simplicity.

In subsection (b), the word "complaint" is omitted as unnecessary. The words "upon formal complaint or in proceedings instituted by the Commission of its own motion" are omitted as surplus.

§ 10504. Exempt rail mass transportation

(a) In this section—

(1) "local public body"—

(A) has the same meaning given that term by section 1608(c)(2) of this title; and

(B) includes a person or entity that contracts with the local public body to provide transportation services.

(2) "rail mass transportation" means transportation services described in section 1608(c)(5) of this title that are provided by rail.

(b) The Interstate Commerce Commission does not have jurisdiction under this subtitle over rail mass transportation provided by a local public body if—

(1) the Commission would have jurisdiction but for this section; and

(2) the fares of the local public body, or its authority to apply to the Commission for changes in those fares, is subject to the approval or disapproval of the chief executive officer of the State in which the transportation is provided.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1360.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10504(a).....	45:744(j)(2).	Jan. 2, 1974, Pub. L. 93-236, 87 Stat. 1008, § 304(j); added Feb. 5, 1976, Pub. L. 94-210, § 804, 90 Stat. 139; Oct. 19, 1976, Pub. L. 94-555, § 206, 90 Stat. 2621.
10504(b).....	45:744(j)(1).	

In subsection (a)(2), the defined term "rail mass transportation" is substituted for "mass transportation services" as being more precise and for consistency with the terms of the subtitle.

In the introductory matter of subsection (b), before clause (1), the words "The Interstate Commerce Commission does not have jurisdiction under this subtitle over" are substituted for "no local public body . . . shall, . . . be subject to the Interstate Commerce Act" for clarity and to conform to the terms used in chapter 105 of the revised title.

In subsection (b)(2), the word "interstate" is omitted as unnecessary. The words "chief executive officer" are substituted for "Governor" as more appropriate in view of the definition of "State" that includes the District of Columbia.

The words "except as provided in subparagraph (B) of this paragraph" and subparagraph (B) are omitted as unnecessary because the Commission does not have jurisdiction over safety, collective bargaining, and employee benefit matters, and those matters are covered by other provisions of title 49 related to the Secretary of Transportation.

§ 10505. Authority to exempt rail carrier transportation

(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under this subchapter, the Commission shall exempt a person, class of persons, or a transaction or service because of the limited scope of the transaction or service, when the Commission finds that the application of a provision of this subtitle—

(1) is not necessary to carry out the transportation policy of section 10101 of this title;

(2) would be an unreasonable burden on a person, class of persons, or interstate and foreign commerce; and

(3) would serve little or no useful public purpose.

(b) The Commission may begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party. The Commission may specify the period of time during which the exemption is effective.

(c) The Commission may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this subtitle to the person, class, or transportation is necessary—

(1) to carry out the transportation policy of section 10101 of this title;

(2) to achieve effective regulation by the Commission; and

(3) to serve a useful public purpose.

(d) The Commission may act under this section only after an opportunity for a proceeding.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1361.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10505.....	49:12(1)(b).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 12(1)(b); added Feb. 5, 1976, Pub. L. 94–210, § 207, 90 Stat. 42.

In subsection (a), the words "by order" and "in such order" are omitted as surplus. The word "unreasonable" is substituted for "undue" for consistency. See the revision note for section 10101 of the revised title.

In subsection (b), the words "Secretary of Transportation" are substituted for "Secretary" for clarity.

In subsection (d), the words "after notice" are omitted as unnecessary in view of subchapter II of chapter 5 of title 5.

SUBCHAPTER II—MOTOR CARRIER TRANSPORTATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1608, 10102, 10328, 10329, 10330, 10341, 10342, 10502, 10543, 10544, 10701, 10704, 10705, 10721, 10722, 10723, 10724, 10725, 10730, 10741, 10762, 10766, 10921, 10922, 10923, 10924, 10927, 10930, 10931, 10932, 10933, 11101, 11106, 11107, 11142, 11143, 11302, 11323, 11342, 11343, 11344, 11502, 11504, 11702, 11705, 11707, 11901, 11904, 11905, 11908, 11909, 11910, 11914 of this title; title 15 sections 1392, 1401, 1990d.

§ 10521. General jurisdiction

(a) Subject to this chapter and other law, the Interstate Commerce Commission has jurisdiction over transportation by motor carrier and the procurement of that transportation to the extent that passengers, property, or both, are transported by motor carrier—

(1) between a place in—

(A) a State and a place in another State;

(B) a State and another place in the same State through another State;

(C) the United States and a place in a territory or possession of the United States to the extent the transportation is in the United States;

(D) the United States and another place in the United States through a foreign country to the extent the transportation is in the United States; or

(E) the United States and a place in a foreign country to the extent the transportation is in the United States; and

(2) in a reservation under the exclusive jurisdiction of the United States or on a public highway.

(b) This subtitle does not—

(1) affect the power of a State to regulate intrastate transportation provided by a motor carrier;

(2) authorize the Commission to prescribe or regulate a rate for intrastate transportation provided by a motor carrier;

(3) allow a motor carrier to provide intrastate transportation on the highways of a State; or

(4) except as provided in section 11504(b) of this title, affect the taxation power of a State over a motor carrier.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1361.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10521(a) (words before cl. (1)).	49:302(a), 303(a)(10) (20 words before proviso), (11) (1st sentence, words between 1st comma and comma before cl. (A)).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §§ 202(a), 203(a)(10) (less proviso), (11) (less last sentence), (c) (words between 6th and 7th commas); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543, 544; Sept. 18, 1940, ch. 722, § 17(a), 54 Stat. 920; Sept. 1, 1950, ch. 835, § 1(b), 64 Stat. 574; July 22, 1954, ch. 563, § 1, 68 Stat. 526; Aug. 22, 1957, Pub. L. 85–163, § 1(2), 71 Stat. 411.
10521(a)(1) (A), (B) 4.	49:303(a)(10) (through 1st comma).	
10521(a)(1) (C)–(E) 4.	49:303(a)(11) (1st sentence, less words between 1st comma and comma before cl. (A)).	
10521(a)(2).	49:303(c) (words between 6th and 7th commas).	
10521(b).....	49:302(b)(1).	Feb. 4, 1987, ch. 104, 24 Stat. 379, § 202(b)(1); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 17, 54 Stat. 920; Sept. 6, 1965, Pub. L. 89–170, § 2, 79 Stat. 648; Dec. 23, 1970, Pub. L. 91–569, § 2(a), 84 Stat. 1500.
	49:316(e) (proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 216(e) (proviso); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 558.

In the introductory matter of subsection (a), before clause (1), the words "Subject to this chapter and other provisions of law" are inserted to inform the reader that other sections of the chapter and subtitle qualify the grant of jurisdiction to the Interstate Commerce Commission under the section. The words "the Interstate Commerce Commission has jurisdiction over" are substituted for "The provisions of this chapter apply to" and "the regulation of such transportation, . . . is vested in the Interstate Commerce Commission" for clarity and to eliminate redundancy. The words "and providing facilities for" are omitted as being included in the definition of "transportation" applicable to the subtitle. The words "to the extent that passengers, property, or both, are transported by motor carrier" are substituted for "whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by rail, express, or water" to eliminate surplus words and because of the Commission's jurisdiction over transportation by motor carrier, and the term "motor vehicle" is a defined term incorporated into the definition of "motor carrier".

In subsection (b), the words "This subtitle does not. . . authorize the Commission" are substituted for "That nothing in this chapter shall empower the Commission" in 49:316(e) for consistency and because of the restatement of the source provisions. The word

"exclusive" is omitted as unnecessary. The words "intrastate transportation" are substituted for "intrastate commerce" for consistency. The words "for any service connected therewith" are omitted as surplus because the eliminated words are included in the word "transportation". The word "rate" is substituted for "rate, fare, or charge" because of the definition of "rate" in section 10102 of the revised title. The words "for the purpose of removing discrimination against interstate commerce or for any other purpose" are omitted as unnecessary because of the restatement of the source provisions. The words "to provide intrastate transportation" are substituted for "to do intrastate business" for clarity and consistency. The words "over a motor carrier" are inserted for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10101, 10522, 11506 of this title.

§ 10522. Exempt transportation between Alaska and other States

To the extent that transportation by a motor carrier between a place in Alaska and a place in another State under section 10521 of this title is provided in a foreign country—

(1) the Interstate Commerce Commission does not have jurisdiction to impose a requirement over conduct of the motor carrier in the foreign country conflicting with a requirement of that country; but

(2) the motor carrier, as a condition of providing transportation in the United States, shall comply, with respect to all transportation provided between Alaska and the other State, with the requirements of this subtitle related to rates and practices applicable to the transportation.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1362.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10522.....	49:303(a)(10) (proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 203(a)(10) (proviso); added July 12, 1960, Pub. L. 86–615, § 3, 74 Stat. 384.

In the introductory matter of the section, before clause (1), the words "under section 10521 of this title" are substituted for "in 'interstate commerce'" in view of the incorporation of the definition of "interstate commerce" in section 10521 of the revised title.

In clause (1), the words "the Interstate Commerce Commission does not have jurisdiction" are substituted for "the application of this chapter does not include" for clarity and to conform to the terms used in chapter 105 of the revised title.

In clause (2), the words "providing transportation" and "all transportation" are substituted for "operating" and "entire service", respectively, for consistency and because 49:303(a)(19) defines "transportation" and "services" as synonymous terms and includes all phases of a carrier's operations. The words "fares, and charges" are omitted as unnecessary in view of the definition of "rates".

§ 10523. Exempt motor vehicle transportation in terminal areas

(a)(1) The Interstate Commerce Commission does not have jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

(A) is a transfer, collection, or delivery;

(B) is provided by—

(i) a rail carrier subject to the jurisdiction of the Commission under subchapter I of this chapter;

(ii) a water carrier subject to the jurisdiction of the Commission under subchapter III of this chapter; or

(iii) a freight forwarder subject to the jurisdiction of the Commission under subchapter IV of this chapter; and

(C) is incidental to transportation provided by the carrier or service provided by the freight forwarder that is subject to the jurisdiction of the Commission under any of those subchapters.

(2) Transportation exempt from the jurisdiction of the Commission under paragraph (1) of this subsection is subject to the jurisdiction of the Commission under subchapter I of this chapter when provided by such a rail carrier, under subchapter III of this chapter when provided by such a water carrier, and under subchapter IV of this chapter when provided by such a freight forwarder.

(b)(1) Except to the extent provided in paragraph (2) of this subsection, the Commission does not have jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

(A) is a transfer, collection, or delivery; and

(B) is provided by a person as an agent or under other arrangement for—

(i) a rail carrier or express carrier subject to the jurisdiction of the Commission under subchapter I of this chapter;

(ii) a motor carrier subject to the jurisdiction of the Commission under this subchapter;

(iii) a water carrier subject to the jurisdiction of the Commission under subchapter III of this chapter; or

(iv) a freight forwarder subject to the jurisdiction of the Commission under subchapter IV of this chapter.

(2) Transportation exempt from the jurisdiction of the Commission under paragraph (1) of this subsection is considered transportation provided by the carrier or service provided by the freight forwarder for whom the transportation was provided and is subject to the jurisdiction of the Commission under subchapter I of this chapter when provided for such a rail carrier or express carrier, under this subchapter when provided for such a motor carrier, under subchapter III of this chapter when provided for such a water carrier, and under subchapter IV of this chapter when provided for such a freight forwarder.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1362.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10523(a).....	49:302(c) (words before cl. (1)), (1).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 202(c); added Sept. 18, 1940, ch. 722, § 17(b), 54 Stat. 920; restated May 16, 1942, ch. 318, § 2, 56 Stat. 300.
10523(b).....	49:302(c) (words before cl. (1)), (2).	

The words "Notwithstanding any provision of this section or of section 303 of this title" in 49:302(c) are omitted as surplus because section 10521 of the revised title codifies the pertinent provisions of 49:302 and 303 or incorporates the terms of 49:303 related to the jurisdiction of the Commission, and section 10521 begins with the words "Subject to". The words "except the provisions of section 304 of this title relative to qualifications and maximum hours of service of employees and safety of operation and equipment" are omitted because, under section 6(e)(6)(C) of Public Law 89-670, those provisions were transferred to the Secretary of Transportation.

In the introductory matter of subsections (a) and (b), before each clause (1), the words "does not have jurisdiction under this subchapter" are substituted for "the provisions of this chapter . . . shall not apply" for clarity and to conform to the terms used in chapter 105 of the revised title.

In subsections (a)(2) and (b)(2), the words "is subject to" are substituted for "shall be considered to be and shall be regulated as transportation subject to" for clarity and to conform to the revised title.

In subsection (b), the words "a person as an agent or under other arrangement for" are substituted for "any person (whether as agent or under a contractual arrangement)" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10930 of this title.

§ 10524. Transportation furthering a primary business

The Interstate Commerce Commission does not have jurisdiction under this subchapter over the transportation of property by motor vehicle when—

(1) the property is transported by a person engaged in a business other than transportation; and

(2) the transportation is within the scope of, and furthers a primary business (other than transportation) of the person.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1363.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10524.....	49:303(c) (less words before "nor").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 203(c) (less words before "nor"); added Aug. 12, 1958, Pub. L. 85-626, § 8, 72 Stat. 574.

The section restates the source provisions for clarity and for consistency with the rest of chapter 105 of the revised title. The words "interstate or foreign commerce" are omitted as unnecessary in view of section 10521 of the revised title that gives the Interstate Commerce Commission jurisdiction only in the instances of commerce enumerated in section 10521.

§ 10525. Exempt motor carrier transportation entirely in one State

(a) The Interstate Commerce Commission shall exempt transportation of a motor carrier subject to the jurisdiction of the Commission under this subchapter from compliance with this subtitle when—

(1) the motor carrier provides transportation entirely in one State; and

(2) the Commission finds that the nature or quantity of transportation provided by the motor carrier does not substantially affect or impair uniform regulation by the Commission of motor carrier transportation in carrying out the transportation policy of section 10101 of this title.

(b) The Commission may begin a proceeding under this section on its own initiative or on application of a motor carrier, a State authority having jurisdiction to regulate intrastate transportation by motor vehicle on the highways of that State, or an interested party. An application must be under oath and must contain information required by Commission regulation. The Commission may exempt the transportation by motor carrier or class of motor carriers. When an exemption is granted, the Commission shall issue a certificate of exemption describing the conditions required by the public interest under which the certificate is issued.

(c) When an application for exemption is accompanied by a certificate of the authority of the State in which the applicant provides transportation stating the finding of the State authority that the applicant is entitled to a certificate of exemption under this section, the exemption is effective on the 60th day after the application is filed with the Commission unless the Commission denies the application before that date. If not denied before that date, the exemption remains effective until the Commission thereafter denies or revokes it.

(d) The Commission may revoke any part of an exemption granted under this section when it finds that the nature or quantity of the transportation by the motor carrier or class of motor carriers is, or is likely substantially to affect or impair uniform regulation by the Commission of motor carrier transportation in carrying out the transportation policy of section 10101 of this title. If the exemption is revoked, the Commission shall restore without further proceedings the authority any such motor carrier had to provide transportation subject to the jurisdiction of the Commission under this subchapter at the time the exemption was effective.

(e) State regulation of the operations of a motor carrier covered by an exemption under this section is not a burden on interstate or foreign commerce.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1363.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10525.....	49:304(a)(4a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(4a); added Sept. 18, 1940, ch. 722, § 19, 54 Stat. 921.

The 5th sentence of 49:304(a)(4a) is omitted as unnecessary in view of subchapter II of chapter 5 of title 5.

In subsection (a), the words "as in fact", "by order", "character", "in good faith", "in the opinion", and "hereinbefore authorized" are omitted as surplus. The word "entirely" is substituted for "solely" for consistency and clarity. The words "in interstate or foreign commerce" are omitted as unnecessary because those words were defined terms in 49:303(a) (10) and (11) and those terms have been incorporated into section 10521 of the revised title stating the jurisdiction of the Interstate Commerce Commission under chapter 105.

In subsection (b), the words "designated in such certificate", "in writing", "verified", and "reasonably" are omitted as surplus. The words "State authority" are substituted for "State board" for consistency and as being more precise. The words "terms and" are omitted as unnecessary.

In subsection (c), the words "Where an application is made in good faith for the exemption of a motor carrier under this subparagraph" are omitted as unnecessary and in view of section 10321 of the revised title giving the Commission general authority to carry out the subtitle. The words "State authority" are substituted for "State board" for consistency and as being more precise.

In subsection (e), the words "interstate or foreign commerce" are retained because they are used in a constitutional sense in the subsection rather than in the sense of statutory definitions as in the case of subsection (a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10341, 10749 of this title.

§ 10526. Miscellaneous motor carrier transportation exemptions

(a) The Interstate Commerce Commission does not have jurisdiction under this subchapter over—

(1) a motor vehicle transporting only school children and teachers to or from school;

(2) a motor vehicle providing taxicab service and having a capacity of not more than 6 passengers and is not operated on a regular route or between specified places;

(3) a motor vehicle owned or operated by or for a hotel and only transporting hotel patrons between the hotel and the local station of a common carrier;

(4) a motor vehicle controlled and operated by a farmer and transporting—

(A) the farmer's agricultural or horticultural commodities and products; or

(B) supplies to the farm of the farmer;

(5) a motor vehicle controlled and operated by a cooperative association (as defined by section 1141j(a) of title 12) or by a federation of cooperative associations if the federation has no greater power or purposes than a cooperative association, except that if the cooperative association or federation provides transportation for compensation between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State—

(A) for a nonmember that is not a farmer, cooperative association, federation, or the United States Government, the transportation (except for transportation otherwise exempt under this subchapter)—

(i) shall be limited to transportation incidental to the primary transportation operation of the cooperative association or federation and necessary for its effective performance;

(ii) may not exceed in each fiscal year 15 percent of the total transportation of the cooperative association or federation between those places, measured by tonnage; and

(iii) shall be provided only after the cooperative association or federation notifies the Commission of its intent to provide the transportation; and

(B) the transportation for all nonmembers may not exceed in each fiscal year, measured by tonnage, the total transportation between those places for the cooperative association or federation and its members during that fiscal year;

(6) a motor vehicle carrying, for compensation, only property and that property consists of—

(A) ordinary livestock;

(B) agricultural or horticultural commodities (other than manufactured products thereof);

(C) commodities listed as exempt in the Commodity List incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, other than frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, or wool imported from a foreign country, wool tops and noils, or wool waste (carded, spun, woven, or knitted); and

(D) cooked or uncooked fish, whether breaded or not, or frozen or fresh shellfish, other than fish or shellfish that have been treated for preserving, such as canned, smoked, pickled, spiced, corned, or kippered products;

(7) a motor vehicle used only to distribute newspapers;

(8) transportation by motor vehicle incidental to transportation by aircraft; or

(9) the operation of a motor vehicle in a national park or national monument.

(b) Except to the extent the Commission finds it necessary to exercise jurisdiction to carry out the transportation policy of section 10101 of this title, the Commission does not have jurisdiction under this subchapter over—

(1) transportation provided entirely in a municipality, in contiguous municipalities, or in a zone that is adjacent to, and commercially a part of, the municipality or municipalities, except—

(A) when the transportation is under common control, management, or arrange-

ment for a continuous carriage or shipment to or from a place outside the municipality, municipalities, or zone; or

(B) that in transporting passengers over a route between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State, the transportation is exempt from the jurisdiction of the Commission only if the motor carrier operating the motor vehicle also is lawfully providing intrastate transportation of passengers over the entire route under the laws of each State through which the route runs;

(2) transportation by motor vehicle provided casually, occasionally, or reciprocally but not as a regular occupation or business, except when a broker or other person sells or offers for sale passenger transportation provided by a person authorized to transport passengers by motor vehicle under an application pending, or certificate or permit issued, under this subtitle; or

(3) the emergency towing of an accidentally wrecked or disabled motor vehicle.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1364.)

AMENDMENT SUBSEQUENT TO MAY 15, 1978

Section 303(b) of this title, from which this section was derived, was amended by Pub. L. 95–599, title I, § 126(c), Nov. 6, 1978, 92 Stat. 2706, see section 303(b) of this title. See also section 3(a) of Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1466, set out as a note preceding chapter 101 of this title.

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10526(a)(1)–(8).	49:303(b)(1)–(3),(4a)–(7a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 203(b); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 545; June 23, 1938, ch. 601, § 1107(j), 52 Stat. 1029; June 29, 1938, ch. 811, § 3, 52 Stat. 1237; Sept. 18, 1940, ch. 722, § 18(b)(2)–(6), 54 Stat. 921; July 9, 1952, ch. 599, § 1, 66 Stat. 479; Aug. 12, 1958, Pub. L. 85–625, § 7(a), 72 Stat. 573; Dec. 17, 1963, Pub. L. 88–208, § 1, 77 Stat. 402; July 26, 1968, Pub. L. 90–433, § 1, 82 Stat. 448.
10526(a)(9).	49:303(b)(4).	
	49:309(a)(1) (last proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 209(a)(1) (last proviso); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 553.
10526(b).....	49:303(b)(8)–(10)	

In the introductory matter of subsections (a) and (b), before each clause (1), the words "does not have jurisdiction under this subchapter" are substituted for "Nothing in this chapter, . . . shall be construed to include" for clarity and to conform to the terms used in chapter 105 of the revised title. The words "except the provisions of section 304 of this title relative to qualifications and maximum hours of service of employees and safety of operation or standards of equipment" are omitted because, under section 6(e)(6)(C) of Public Law 89–670, those provisions were transferred to the Secretary of Transportation.

In subsection (a)(1), the words "transporting only" are substituted for "employed solely in transporting" to conform to the terms of the other clauses of the section.

In subsection (a)(2), the words "taxicabs, or other" and "bona fide" are omitted as surplus. The words "specified places" are substituted for "fixed termini" for consistency.

In subsection (a)(3), the words "railroad or other" are omitted as surplus. The word "only" is substituted for "exclusively" for consistency.

In subsection (a)(5), the words "so defined" are omitted as surplus. The words "between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State" are substituted for "interstate transportation" for clarity and consistency. The words "any agency or instrumentality thereof" are omitted as surplus.

In subsection (a)(5)(A)(i), (ii), and (iii), the words "under this subchapter" are substituted in each place for "under this chapter" because of the codification of the motor carrier jurisdictional provisions in subchapter II of chapter 105 of the revised title.

In subsection (a)(5)(A)(ii) and (B), the word "by" is substituted in each place for "in terms of" to eliminate surplus words.

In the introductory matter of subsection (a)(6), before clause (A), the words "or passengers" are omitted as unnecessary in view of the restatement of the introductory matter.

In subsection (a)(6)(A), the words "(including shellfish)" are omitted as unnecessary in view of subsection (a)(6)(D).

In subsection (a)(7), the word "only" is substituted for "exclusively" for consistency.

Subsection (a)(9) restates the source provisions for clarity and consistency. The words following the comma in 49:309(a)(1) (last proviso), and the words "under authorization, regulation, and control of the Secretary of the Interior" in 49:303(b)(4), are omitted as surplus.

In subsection (b)(1), the words "in interstate or foreign commerce" are omitted for consistency and as unnecessary because the Commission only has jurisdiction under subchapter II of chapter 105 when interstate or foreign commerce is involved. See section 10521 of the revised title.

In subsection (b)(1)(B), the words "regular or irregular", "or routes", "lawfully", and "such interstate" are omitted as surplus. The words "between a place in a State and a place in another State, or a place in a State and another place in the same State through another State" are substituted for "interstate commerce" for clarity. The words "through which the route runs" are substituted for "having jurisdiction" for clarity.

In subsection (b)(2), the words "interstate or foreign commerce for compensation" are omitted for consistency and as unnecessary because the Commission only has jurisdiction under subchapter II of chapter 105 when interstate or foreign commerce for compensation is concerned. The words "passengers or property" are omitted as unnecessary in view of the definition of "transportation". The words "procured or furnished or arranged for" are omitted as surplus in view of the definition of "broker" in section 10102 of the revised title.

In subsection (b)(3), the words "in interstate or foreign commerce" are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10561, 10749, 11101, 11144 of this title; title 16 section 2302.

SUBCHAPTER III—WATER CARRIER TRANSPORTATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 10102, 10329, 10502, 10523, 10701, 10703, 10704, 10705, 10721, 10722, 10723, 10724, 10725, 10726, 10741, 10742, 10762, 10921, 10922, 10923, 10930, 10933, 11101, 11108, 11141, 11142, 11143, 11323, 11342, 11343, 11502, 11504, 11702, 11705, 11706, 11904, 11905, 11908, 11909, 11910, 11914 of this title; title 26 section 7701; title 50 App. section 1216.

§ 10541. General jurisdiction

(a) Subject to this chapter and other law, the Interstate Commerce Commission has jurisdiction over transportation insofar as water carriers are concerned—

(1) by water carrier between a place in a State and a place in another State, even if part of the transportation is outside the United States;

(2) by water carrier and rail carrier or motor carrier from a place in a State to a place in another State, except that if part of the transportation is outside the United States, the Commission only has jurisdiction over that part of the transportation provided—

(A) by rail carrier or motor carrier that is in the United States; and

(B) by water carrier that is from a place in the United States to another place in the United States; and

(3) by water carrier or by water carrier and rail carrier or motor carrier between a place in the United States and a place outside the United States, to the extent that—

(A) when the transportation is by rail carrier or motor carrier, the transportation is provided in the United States;

(B) when the transportation is by water carrier to a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States before transshipment from a place in the United States to a place outside the United States; and

(C) when the transportation is by water carrier from a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States after transshipment to a place in the United States from a place outside the United States.

(b) If transportation by a carrier would be subject to the jurisdiction of the Commission under both subsection (a) of this section and subchapter I of this chapter, then that transportation is subject to the jurisdiction of the Commission under subsection (a) of this section. However, that transportation is also subject to the jurisdiction of the Commission under subchapter I of this chapter to the extent that this subtitle imposes requirements on transportation by carriers subject to the jurisdiction of the Commission under subchapter I that are not imposed on transportation by carriers subject to the jurisdiction of the Commission under subsection (a) of this section.

(c) This subtitle does not—

(1) affect the power of a State to regulate intrastate transportation provided by a water carrier; or

(2) authorize the Commission to prescribe or regulate a rate for intrastate transportation by a water carrier.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1365.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10541(a) (introductory words before cl. (1)).	49:ch. 12 generally (§§ 901–923).	Feb. 4, 1887, ch. 104, 24 Stat. 379, pt. III, §§ 302(i), 303(a), (j), (k); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 929, 930, 931, 933.
10541(a)(1)–(3).	49:902(i).	
10541(b).....	49:903(a).	
10541(c).....	49:903(j), (k).	

In the introductory matter of subsection (a), before clause (1), the words "the Interstate Commerce Commission has jurisdiction over transportation insofar as water carriers are concerned" are based on 49:chapter 12 and are inserted to inform the reader of the general jurisdiction of the Commission in the water carrier area and to conform to the approach of sections 10501 and 10521 that are based on existing law. The words "Subject to this chapter and other provisions of law" are inserted to inform the reader that other sections of the subtitle qualify the grant of jurisdiction to the Commission under subsection (a).

In subsection (a)(1), (3) the words "wholly", and "partly" are omitted as surplus. The words "water carrier", "rail carrier", and "motor carrier" are substituted for "water", "railroad", and "motor vehicle", respectively, as more precise because the purpose of the language of the section is to state the jurisdiction of the Commission over transportation by the 3 types of carriers, and the terms "railroad" and "motor vehicle" are defined terms incorporated into the definitions of "rail carrier" and "motor carrier", respectively.

In subsection (a)(3), the words "for movement" and "in a movement" are omitted as surplus.

In subsection (c), the words "This subtitle does not" are substituted for "Nothing in this chapter shall" for clarity. The word "exclusive" is omitted as unnecessary. The words "intrastate transportation" are substituted for "intrastate commerce" for consistency. The words "within the jurisdiction of such State" are omitted as unnecessary. The word "rate" is substituted for "rate, fare, or charge" because of the definition of "rate" in section 10102 of the revised title. The words after "intrastate transportation" are omitted as unnecessary because services are included in the word "transportation" and because of the restatement of the source provisions.

§ 10542. Exempt bulk transportation

(a)(1) The Interstate Commerce Commission does not have jurisdiction under this subchapter over transportation by a water carrier of commodities in bulk that, under an existing custom of the trade in the handling and transportation of commodities in bulk as of June 1, 1939—

(A) are loaded and carried without wrappers or containers; and

(B) are received and delivered by the carrier without transportation mark or count.

(2) This subsection does not apply to transportation subject to chapter 23A of title 46 on September 18, 1940.

(b) The Commission does not have jurisdiction under this subchapter over transportation by a water contract carrier of commodities in bulk in a non-oceangoing vessel on a normal voyage during which—

(1) the cargo space of the vessel is used for carrying not more than 3 commodities in bulk; and

(2) the vessel passes in or through waters that are international for navigational purposes by a treaty to which the United States is a party.

(c) The Commission does not have jurisdiction under this subchapter over transportation by water carrier of liquid cargoes in bulk in tank vessels—

(1) designed exclusively for transporting such a cargo; and

(2) certified under regulations of the Secretary of Transportation under section 391a of title 46.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1366.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10542(a).....	49:903(b).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 303 (b), (c), (d); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 931; Reorg. Plan No. 3 of 1946, eff. May 16, 1946, §§ 101-104, 60 Stat. 1097; Oct. 15, 1966, Pub. L. 89-670, § 6(b), 80 Stat. 937; Dec. 28, 1970, Pub. L. 91-590, § 1, 84 Stat. 1587; Dec. 27, 1973, Pub. L. 93-201, § 1, 87 Stat. 838.
10542(b).....	49:903(c).	
10542(c).....	49:903(d).	

In subsection (a)(1), before clause (A), and in subsections (b) and (c), before each clause (1), the words "Commission does not have jurisdiction under this subchapter" are substituted for "Nothing in this chapter shall apply" for clarity and for consistency with the terms used in other sections of chapter 105 of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10749 of this title.

§ 10543. Exempt incidental water transportation

(a)(1) The Interstate Commerce Commission does not have jurisdiction under this subchapter when the transportation—

(A)(i) is provided in a terminal area and is a transfer, collection, or delivery; or

(ii) is flotage, car ferrying, lighterage, or towage;

(B) is provided by—

(i) a rail carrier subject to the jurisdiction of the Commission under subchapter I of this chapter; or

(ii) a motor carrier subject to the jurisdiction of the Commission under subchapter II of this chapter; and

(C) is incidental to transportation provided by the carrier subject to the jurisdiction of the Commission under either of those subchapters.

(2) Transportation exempt from the jurisdiction of the Commission under paragraph (1) of this subsection is subject to the jurisdiction of the Commission under subchapter I of this chapter when provided by such a rail carrier and under subchapter II of this chapter when provided by such a motor carrier.

(b)(1) Except to the extent provided in paragraph (2) of this subsection, the Commission does not have jurisdiction under this subchapter over transportation by water when the transportation—

(A)(i) is provided in a terminal area and is a transfer, collection, or delivery; or

(ii) is flotage, car ferrying, lighterage, or towage; and

(B) is provided by a person as an agent or under other arrangement for—

(i) a rail carrier or express carrier subject to the jurisdiction of the Commission under subchapter I of this chapter;

(ii) a motor carrier subject to the jurisdiction of the Commission under subchapter II of this chapter; or

(iii) a water carrier subject to the jurisdiction of the Commission under this subchapter.

(2) Transportation exempt from the jurisdiction of the Commission under paragraph (1) of this subsection is considered transportation provided by the carrier for whom the transportation was provided and is subject to the jurisdiction of the Commission under subchapter I of this chapter when provided for such a rail carrier or express carrier, under subchapter II of this chapter when provided for such a motor carrier, and under this subchapter when provided for such a water carrier.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1367.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10543(a).....	49:903(f) (words before cl. (1)), (1).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 303(f); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 932.
10543(b).....	49:903(f) (words before cl. (1)), (2).	

The words "Notwithstanding any provision of this section or of section 902 of this title" in 49:903(f) are omitted as surplus because section 10541 of the revised title codifies the pertinent provisions of 49:902 and 903, and section 10541 begins with the words "Subject to".

In the introductory matter of subsections (a) and (b), before each clause (1), the words "does not have jurisdiction under this subchapter" are substituted for "the provisions of this chapter shall not apply" for clarity and to conform to the terms used in chapter 105 of the revised title. The words "over transportation by water" are omitted as unnecessary.

§ 10544. Miscellaneous water carrier transportation exemptions

(a) Except to the extent the Interstate Commerce Commission finds it necessary to exercise jurisdiction to carry out the transportation policy of section 10101 of this title, the Commission does not have jurisdiction under this subchapter over transportation by water carrier when the transportation is provided—

(1) entirely in one harbor or between places in contiguous harbors, other than transportation under common control, management, or arrangement for a continuous carriage or shipment to or from a place outside the limits of the harbor or the contiguous harbors;

(2) by a vessel of not more than 100 tons carrying capacity or 100 indicated horsepower;

(3) by a vessel carrying only passengers and equipped to carry not more than 16 passengers;

(4) by a ferry;

(5) by a water carrier transporting equipment of contractors used, or to be used, in construction or repair for the water carrier; or

(6) to carry out salvage operations.

(b) The Commission may exempt from its jurisdiction under this subchapter the transportation of passengers between places in the United States through a foreign port when the Commission finds its jurisdiction is not necessary to carry out the transportation policy of section 10101 of this title. The Commission may begin a proceeding under this subsection on its own initiative or on application of an interested party.

(c) The Commission shall exempt from its jurisdiction under this subchapter the transportation of commodities by water contract carrier when the Commission finds that the transportation is not actually and substantially competitive with transportation provided by a carrier subject to the jurisdiction of the Commission under subchapter I or II of this chapter because of the inherent nature of the commodities transported, their requirement of special equipment, or their shipment in bulk. The Commission may prescribe conditions applicable to an exemption under this subsection. The Commission may begin a proceeding under this subsection on application of a water contract carrier.

(d)(1) The Commission does not have jurisdiction under this subtitle over transportation by a water common carrier provided between the 48 contiguous States and Alaska if, before January 3, 1959—

(A) the carrier provided that transportation, was also a motor common carrier, and has continued to provide the transportation since before that date; and

(B) the transportation was subject to chapters 23 and 23A of title 46.

(2) The transportation remains subject to the jurisdiction of the Federal Maritime Commission.

(e) The Commission shall exempt the transportation of property on a vessel furnished by a water contract carrier to a person not a carrier providing transportation or service subject to the jurisdiction of the Commission under this subtitle when the person uses the vessel to transport its own property and the Commission finds its jurisdiction is not necessary to carry out the transportation policy of section 10101 of this title. The Commission may begin a proceeding under this section on its own initiative or on application of an interested party. The Commission may exempt the transportation by person or class of persons. The Commission shall specify the period of time during which the exemption is effective. The Commission may revoke the exemption when it finds that its jurisdiction over the transportation of the property is necessary to carry out the transportation policy of section 10101. The Commission may deny or revoke an exemption only after an opportunity for a proceeding.

(f)(1) The Commission shall exempt the transportation of property by a water carrier under this subchapter when the Commission finds that the carrier is transporting only the property of a person owning substantially all of the voting stock of the carrier. When an exemption is granted, the Commission shall issue a certificate of exemption. The Commission may begin a proceeding under this subsection on its own initiative or on application of an interested party.

(2) The Commission may revoke an exemption granted under this subsection when it finds the water carrier is no longer entitled to the exemption. If the exemption is revoked, the Commission shall restore without further proceedings the authority the water carrier had to provide transportation subject to the jurisdiction of the Commission under this subchapter at the time the exemption became effective.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1368.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10544(a).....	49:903(g).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 303(g), (h); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 932, 933.
10544(b).....	49:903(e)(1).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 303(e)(1), (2) (less last sentence); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 932; restated June 12, 1948, ch. 457, § 1, 62 Stat. 386.
10544(c).....	49:903(e)(2) (less last sentence).	
10544(d).....	49:903(e)(3).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 303(e)(3); added July 12, 1960, Pub. L. 86–615, § 8, 74 Stat. 386; Reorg. Plan No. 7 of 1961, eff. Aug. 12, 1961, § 103, 75 Stat. 840.
10544(e).....	49:902(e) (3d–5th sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 302(e) (3d–5th sentences); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 930.
10544(f).....	49:903(h).	

In subsection (a), the words "does not have jurisdiction under this subchapter" are substituted for "the provisions of this part shall not apply" for clarity and to conform to the terms used in chapter 105 of the revised title. The words "to exercise jurisdiction" are inserted for clarity and to conform to the language of section 10526(b) of the revised title. The words "transportation by water carrier" are used to introduce all 6 clauses of the section for consistency within the section and with other sections of the subchapter.

Subsection (a)(1) has been restated to conform to the language of section 10526(b)(1) and terms used elsewhere in chapter 105. The words "in interstate commerce" are omitted for consistency and as unnecessary because the Commission only has jurisdiction when specified interstate or foreign commerce is involved.

In subsection (a)(2), the word "vessel" is substituted for "small vessel" because "vessel" is a defined term in section 10102 of the revised title that applies to "watercraft" and the balance of the clause explains what "small" means.

In subsection (b), the words "exempt from its jurisdiction under this subchapter" and "its jurisdiction" are substituted for "exempt from the requirements of this chapter" and "application of such requirements", respectively, for consistency and clarity. The words "any provision", "by order", "or ports", and "thereto" are omitted as surplus. The words "of an interested party" are added for clarity.

In subsection (c), the words "It is declared to be the policy of" and "to exclude from the provisions of this chapter, in addition to the transportation otherwise excluded under this section" are omitted as surplus. The words "made in such manner and form as the Commission may by regulations prescribe" are omitted in view of section 10321(a) of the revised title. The words "and limitations" are omitted as unnecessary. The words "by order . . . such of the transportation engaged in by such carrier as it finds necessary to carry out the policy above declared" are omitted as surplus.

Subsection (d) restates the source provisions for clarity and consistency. The word "transportation" is substituted for "operations" because the jurisdiction of the Interstate Commerce Commission is over transportation and the operations of a carrier are included in the definition of transportation.

Subsection (e) restates the source provisions for clarity and consistency. The words "after an opportunity for a proceeding" are substituted for "reasonable opportunity for hearing" for consistency.

Subsection (f) restates the source provisions for clarity and consistency. The words "substantially all" are substituted for "all or substantially all" to eliminate redundancy. The words "by order", "foregoing provisions", and "if any" are omitted as surplus. The words following the comma in the 2d sentence of 49:903(h) are omitted as unnecessary. The last sentence of 49:903(h) is omitted as unnecessary in view of subchapter II of chapter 5 of title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10929 of this title.

SUBCHAPTER IV—FREIGHT FORWARDER SERVICE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 10329, 10523, 10701, 10704, 10722, 10730, 10741, 10749, 10762, 10766, 10921, 10923, 10930, 10933, 11101, 11127, 11142, 11323, 11501, 11502, 11702, 11705, 11707, 11904, 11909, 11910, 11914 of this title.

§ 10561. General jurisdiction

(a) Subject to this chapter and other law, the Interstate Commerce Commission has jurisdiction over service that a freight forwarder—

(1) undertakes to provide; or

(2) is authorized or required under this subtitle to provide;

to the extent transportation is provided in the United States and is between—

(A) a place in a State and a place in another State, even if part of the transportation is outside the United States;

(B) a place in a State and another place in the same State through a place outside the State; or

(C) a place in the United States and a place outside the United States.

(b) The Commission does not have jurisdiction under subsection (a) of this section over service undertaken by a freight forwarder using transportation—

(1) of an air carrier subject to chapter 20 of this title; or

(2) by motor vehicle exempt under section 10526(a)(8) of this title.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1369.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10561(a) (introductory words before cl. (1)).	49:ch. 13 generally (§§ 1001–1052).	Feb. 4, 1887, ch. 104, 24 Stat. 379, pt. IV, § 402(a)(6), (7); added May 16, 1942, ch. 318, § 1, 56 Stat. 285.
10561(a)(1), (2).	49:1002(a)(7) (words before semicolon).	
10561(a)(A)-(C).	49:1002(a)(6).	
10561(b).....	49:1002(a)(7) (words after semicolon).	

In the introductory matter of subsection (a), before clause (1), the words "the Interstate Commerce Commission has jurisdiction over service that a freight forwarder" are based on 49:chapter 13 and the words preceding "undertakes" in 49:1002(a)(7). They are inserted to inform the reader of the general jurisdiction of the Commission in the freight forwarder area and to conform to the approach of sections 10501 and 10521 that are based on existing law. The words "Subject to this chapter and other provisions of law" are inserted to inform the reader that other sections of the subtitle qualify the grant of jurisdiction of the Commission under section 10561. The words "or all" are omitted as surplus. The words "freight forwarder" are substituted for "any person . . . as a freight forwarder" to eliminate redundancy and because the definition of "freight forwarder" applies to a person.

In subsection (a)(1) and (2., the words "perform or" are omitted as redundant.

In subsection (b)(1), the words "air carrier subject to chapter 20 of this title" are substituted for "air carrier subject to the Civil Aeronautics Act of 1938, as amended" because the 1938 Act was repealed and replaced by the Federal Aviation Act of 1958, and the 1958 act is included in the United States Code as chapter 20 of title 49.

§ 10562. Exempt freight forwarder service

The Interstate Commerce Commission does not have jurisdiction under this subchapter over—

(1) service provided by, or under the direction of, a cooperative association (as defined by section 1141j(a) of title 12) or by a federation of cooperative associations if the federation has no greater power or purposes than a cooperative association;

(2) service subject to the jurisdiction of the Commission and provided with respect to only one of the following categories:

(A) ordinary livestock;

(B) fish (including shellfish);

(C) agricultural or horticultural commodities (other than manufactured products thereof); or

(D) used household goods;

(3) the service of a shipper or a group of shippers in consolidating or distributing freight on a nonprofit basis, for the shipper or members of the group to secure carload, truckload, or other volume rates; or

(4) the service of an agent of a shipper in consolidating or distributing pool cars when the service is provided for the shipper only in a terminal area in which the service is performed.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1369.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10562(1), (2).	49:1002(b).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 402(b), (c); added May 16, 1942, ch. 318, § 1, 56 Stat. 285.
10562(3), (4).	49:1002(c).	

In the introductory matter before clause (1), the words "The Interstate Commerce Commission does not have jurisdiction under this subchapter" are substituted for "The provisions of this part shall not apply" for clarity and to conform to the terms used in chapter 105 of the revised title. The word "provided" is substituted for "performed" in each place for consistency.

Clause (2) is restated for clarity. The words "or horticultural" are inserted for consistency with section 10526(a)(4)(A) and (6)(B) of the revised title.

In clauses (3) and (4), the word "service" is substituted for "operations" for consistency in the subchapter.

In clause (3), the words "the benefits" and "or association" are omitted as surplus.

In clause (4), the words "warehouseman or other" are omitted as surplus.

CHAPTER 107—RATES, TARIFFS, AND VALUATIONS

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10701. Standards for rates, classifications, through routes, rules, and practices.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 11903, 11904, 11916 of this title.

SUBCHAPTER I—GENERAL AUTHORITY

§ 10701. Standards for rates, classifications, through routes, rules, and practices

(a) A rate, classification, rule, or practice related to transportation or service provided by a carrier subject to the jurisdiction of the Inter-

state Commerce Commission under chapter 105 of this title must be reasonable. A through route established by such a carrier must be reasonable. Divisions of joint rates by those carriers must be made without unreasonable discrimination against a participating carrier and must be reasonable.

(b)(1) A rate for transportation provided by a rail carrier subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title that contributes, or would contribute, to the going concern value of that carrier does not violate subsection (a) of this section because it is below a reasonable minimum rate for the service rendered or to be rendered. This subsection does not prohibit increasing a rate to a level that contributes to the going concern value of a rail carrier if the increase is otherwise reasonable. The increased rate is presumed reasonable if it does not exceed the incremental costs of rendering the transportation to which the increase applies.

(2)(A) A rate for transportation by a rail carrier that equals or exceeds the variable costs of providing the transportation is presumed to contribute to the going concern value of the rail carrier proposing the rate. However, the presumption may be rebutted by clear and convincing evidence.

(B) Variable and incremental costs shall be determined under formulas prescribed by the Commission. However, when making a determination of variable costs, the Commission shall, on application of the rail carrier proposing the rate, determine only the costs of that carrier and only those costs of the specific service in question unless the specific information is not available. The Commission may not include in variable costs an expense that does not vary directly with the level of transportation provided under the proposed rate.

(c) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title may not discriminate in its rates against a connecting line of another carrier providing transportation subject to the jurisdiction of the Commission under either of those subchapters or unreasonably discriminate against that line in the distribution of traffic that is not routed specifically by the shipper.

(d) In a proceeding to determine whether a rate for transportation or service provided by a common carrier subject to the jurisdiction of the Commission under subchapter II, III, or IV of chapter 105 of this title complies with subsection (a) of this section, the good will, earning power, or certificate or permit under which that carrier is operating may not be considered or admitted as evidence of the value of the property of that carrier. When the carrier receives a certificate or permit under chapter 109 of this title, it is considered to have agreed to this subsection for itself and for all transferees of that certificate or permit.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1371.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10701(a).....	49:1(4) (related to standards), (5)(a), (b) (1st and 2d sentences).	Feb. 4, 1887, ch. 104, § 1(4) (related to standards), (5)(a), (b) (less 7th and 8th sentences), 24 Stat. 379; June 29, 1906, ch. 3591, § 1, 34 Stat. 584; Feb. 28, 1920, ch. 91, § 400, 41 Stat. 474; June 19, 1934, ch. 652, § 602(b), 48 Stat. 1102; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 2(c), (d), 54 Stat. 900; Aug. 2, 1949, ch. 379, § 1, 63 Stat. 485; Feb. 5, 1976, Pub. L. 94-210, § 202(a), (b), 90 Stat. 34.
	49:316(a) (related to standards), (b) (related to standards), (d) (1st sentence); 318(a) (1st sentence related to standards).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 216(a) (related to standards), (b) (related to standards), (d) (1st sentence), (h), § 218(a) (1st sentence related to standards); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 558, 560, 561; Sept. 18, 1940, ch. 722, §§ 22(b), 23(a), 54 Stat. 924, 925.
	49:905(a) (1st sentence related to standards and 2d sentence), (b) (4th sentence); 906(e) (1st sentence related to standards).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §§ 305(a) (1st sentence related to standards and 2d sentence), (b) (4th sentence), (d) (1st sentence 2d cl., 2d sentence related to standards), 306(e) (1st sentence related to standards), 307(c); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 934, 935, 937; Aug. 24, 1962, Pub. L. 87-595, § 2, 76 Stat. 398.
	49:1004(a) (related to standards).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §§ 404(a) (related to standards), 406(c); added May 16, 1942, ch. 318, § 1, 56 Stat. 286, 288.
10701(b).....	49:1(5)(b) (less 1st, 2d, 7th, and 8th sentences).	
10701(c).....	49:3(4) (1st sentence 2d cl., 2d sentence related to standards).	Feb. 4, 1887, ch. 104, § 3(4) (1st sentence 2d cl., 2d sentence related to standards), 24 Stat. 380; Feb. 4, 1920, ch. 91, § 405, 41 Stat. 479; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 5(e), 54 Stat. 903.
	49:905(d) (1st sentence 2d cl., 2d sentence related to standards).	
10701(d).....	49:316(h). 49:907(c). 49a:1006(c).	

The section consolidates and restates the source provisions for clarity. The words "rates" and "transportation" are substituted for "rate, fare, or charge" and "service . . . in the transportation of passengers or property", except as related to freight forwarders, in view of the definitions of "rate" and "transportation" in section 10102 of the revised title.

Subsection (a) is added to eliminate repetition of the word "reasonable" throughout the revised title. The word "reasonable" is substituted for "just and reasonable" for clarity, consistency, and to conform to modern usage. See the revision note to section 10101 of the revised title. The 2d clause and last sentence of 49:1(5)(a) and the 2d sentence of 49:1(5)(b) are omitted as surplus. The words "discrimination against" are substituted for "prefer or prejudice" as being inclusive. See the revision note to section 10101 of the revised title.

In subsection (b), the words "or not shown to be" are omitted as surplus. The words "(hereafter in this paragraph referred to as the 'proponent carrier')" are omitted as unnecessary. The word "unless" is substituted for "except where" for clarity. The words "For the purposes of the preceding sentence" are omitted as surplus. The last sentence of subsection (b)(1) is substituted for 49:1(5)(b) (last sentence) to eliminate unnecessary terms.

In subsection (c), the word "unreasonably" is substituted for "unduly" for consistency. The last sentence of 49:905(d) is omitted as unnecessary in view of the restatement. The words "discriminate against" are substituted for "prejudice" as being more inclusive. See the revision note to section 10101 of the revised title.

In subsection (d), 49:316(h), 907(c), and 1006(c) are consolidated into one subsection patterned after 49:316(h). The words "is considered" are substituted for "shall be deemed" for clarity. The words "the provisions of" are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10705, 10707, 10711, 10729, 10731, 10925, 11126 of this title.

§ 10702. Authority for carriers to establish rates, classifications, rules, and practices

(a) A common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title shall establish—

(1) rates, including divisions of joint rates, and classifications for transportation and service it may provide under this subtitle; and

(2) rules and practices on matters related to that transportation or service, including rules and practices on—

(A) issuing tickets, receipts, bills of lading, and manifests;

(B) carrying of baggage;

(C) the manner and method of presenting, marking, packing, and delivering property for transportation; and

(D) facilities for transportation.

(b) A contract carrier providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title shall establish, and file with the Commission, actual and minimum rates for the transportation it may provide under this subtitle and rules and practices related to those rates. However, this subsection does not require a motor contract carrier to maintain the same rates and rules related to those rates for the same transportation provided to shippers served by it. The Commission may grant relief from this subsection when relief is consistent with the public interest and the transportation policy of section 10101 of this title. The Commission may begin a proceeding under this subsection on application of a contract carrier or group of contract carriers or on its own initiative for a water contract carrier or group of water contract carriers.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1372.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10702(a).....	49:1(4) (2d sentence last cl.), (6) (less last sentence).	Feb. 4, 1887, ch. 104, § 1(4) (2d sentence last cl.), (6) (less last sentence), 24 Stat. 379; June 29, 1906, ch. 3591, § 1, 34 Stat. 584; Feb. 28, 1920, ch. 91, § 400, 41 Stat. 474; June 19, 1934, ch. 652, § 602(b), 48 Stat. 1102; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 2(c), (d), 54 Stat. 900; Aug. 2, 1949, ch. 379, § 1, 63 Stat. 485.
	49:316(a) (60th-143d words), (b) (less 16th-33d words), (c) (2d sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 216(a) (60th-143d words), (b) (less 16th-33d words), (c) (2d sentence); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 558; Sept. 18, 1940, ch. 722, § 22(b), 54 Stat. 924; Aug. 24, 1962, Pub. L. 87-595, § 1, 76 Stat. 397.
	49:905(a) (less 1st sentence 1st cl. and last sentence), (b) (4th sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §§ 305(a) (less 1st sentence 1st cl. and last sentence), (b) (4th sentence), 306(e) (1st sentence and 7th sentence proviso related to relief); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 934, 935; Aug. 24, 1962, Pub. L. 87-595, § 2, 76 Stat. 398.
	49:1004(a) (related to carrier authority).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 404(a) (related to carrier authority); added May 16, 1942, ch. 318, § 1, 56 Stat. 286.
10702(b).....	49:318(a) (1st and 4th sentence, and 7th sentence proviso related to relief).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 218(a) (1st and 4th sentences, and 7th sentence proviso related to relief); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 561; Sept. 18, 1940, ch. 722, §§ 16, 23(a), 54 Stat. 919, 925; Aug. 13, 1957, Pub. L. 85-124, § 13, 71 Stat. 343.
	49:906(e) (1st sentence, and 7th sentence proviso related to relief).	

The section consolidates and restates the source provisions for clarity.

In subsection (a), the word "shall" is substituted for "It shall be the duty of every" for clarity. The words "observe, and enforce" are omitted as surplus in view of the restatement. The authority to establish rates in this section is made applicable to rail, express, sleeping car, and pipeline carriers for consistency. The word "prejudice" is omitted as surplus. The word "rules" is substituted for "rules and regulations" for consistency when referring to carriers. The word

"rates" is substituted for "rates, fares, charges" in view of the definition of "rate" in section 10102 of the revised title. The word "tariffs" is omitted as unnecessary. The words "personal, sample, and excess" are omitted as surplus. The words "related to" are substituted for "connected with" for clarity. The last 63 words of 49:1(6) (1st sentence) are omitted as surplus.

In subsection (b), the word "shall" is substituted for "It shall be the duty of every" for clarity. The words "and observe" are omitted as surplus. The word "rules" is substituted for "regulations" for consistency when referring to carriers. The words "However, this subsection" are inserted for clarity. The words "does not require" are substituted for "Nothing herein provided shall be so construed as to require" for clarity. The words "from this subsection" are substituted for "from the provisions of this paragraph" in 49:318(a) and "from the provisions of this subsection" in 49:906(e) to conform to the revised title. The words "to such extent and for such time, and in such manner as in its judgment" are omitted as unnecessary in view of the restatement. The words "may begin a proceeding under this subsection" are substituted for "after hearing" in view of subchapter II of chapter 103 of the revised subtitle and subchapter II of chapter 5 of title 5. The words "on application" are substituted for "may apply to" for clarity. The word "group" is substituted for "any class or group" as being more inclusive. The words "for good cause shown" in 49:906(e) (7th sentence proviso) are omitted as surplus in view of the specific criteria imposed by that section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10925, 11126 of this title.

§ 10703. Authority for carriers to establish through routes

(a) A carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title shall establish through routes as follows:

(1) Rail, express, sleeping car, and pipeline carriers shall establish through routes with each other and shall establish rates and classifications applicable to those routes.

(2) Rail and water common carriers shall establish through routes with each other and shall establish rates and classifications applicable to those routes.

(3) A motor common carrier of passengers shall establish through routes with other carriers of the same type and shall establish individual and joint rates applicable to them.

(4)(A) A motor common carrier of property may establish through routes and joint rates and classifications applicable to them with other carriers of the same type, with rail and express carriers, and with water common carriers, including those referred to in subparagraph (D) of this paragraph.

(B) A motor common carrier of passengers may establish through routes and joint rates applicable to them with rail carriers or water common carriers, including those referred to in subparagraph (D) of this paragraph, or both.

(C) Water common carriers shall establish through routes with each other and shall establish rates and classifications applicable to those routes and may establish—

(i) through routes and rates and classifications applicable to them with motor common carriers; and

(ii) through routes and joint rates and classifications applicable to them with water common carriers referred to in subparagraph (D)(ii) of this paragraph.

(D) A through route or joint rate or classification authorized to be established with a carrier referred to in this subparagraph may be established with a water common carrier providing transportation subject to—

(i) the jurisdiction of the Commission under subchapter III of chapter 105 of this title; or

(ii) section 801 or sections 843–848 of title 46 (including persons holding themselves out to transport goods by water but not owning or operating vessels) and providing transportation of property between Alaska or Hawaii and the other 48 States.

A through route and a rate, classification, rule, or practice related to a through route with a water common carrier referred to in this subparagraph is subject to the provisions of this subtitle governing the type of carrier establishing the rate, classification, rule, or practice.

(b) A carrier providing transportation subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title that establishes a through route with another carrier under this section shall establish rules for its operation and provide—

(1) reasonable facilities for operating the through route; and

(2) reasonable compensation to persons entitled to compensation for services related to the through route.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1372.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10703(a)(1), (2).	49:1(4) (1st sentence related to through routes).	Feb. 4, 1887, ch. 104, § 1(4) (1st sentence related to through routes and 2d sentence less last cl.), 24 Stat. 379; June 29, 1906, ch. 3591, § 1, 34 Stat. 584; Feb. 28, 1920, ch. 91, § 400, 41 Stat. 474; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 2(c), 54 Stat. 900.
	49:905(b) (1st sentence 1st–43d words).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 305(b) (less 4th sentence); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 934; Aug. 24, 1962, Pub. L. 87-595, § 2, 76 Stat. 398.
10703(a)(3).	49:316(a) (1st–24th and 45th–59th words).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 216(a) (1st–24th, 45th–59th words), (c) (less 2d sentence); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 558; Aug. 24, 1962, Pub. L. 87-595, § 1, 76 Stat. 397.
10703(a)(4)(A), (B).	49:316(c) (1st sentence).	

HISTORICAL AND REVISION NOTES—Continued

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10703(a)(4)(C).	49:905(b) (2d sentence and 3d sentence 1st–25th words).	
10703(a)(4)(D).	49:316(c) (less 1st and 2d sentences). 49:905(b) (3d sentence less 1st–25th words).	
10703(b).....	49:1(4) (less 1st sentence and 2d sentence last cl.). 49:905(b) (less 1st sentence 1st–43d words, 2d, 3d, and 4th sentences).	

The section consolidates and restates the source provisions for clarity. In subsection (a), the words "under subchapter I of chapter 105 of this title" are substituted for "subject to this chapter" to conform to the revised title. The words "providing transportation subject to the jurisdiction of the Interstate Commerce Commission" are substituted for "subject to chapter 12" to conform to the revised title. The word "rates" is substituted for "rates, fares, charges" in view of the definition of "rate" in section 10102 of the revised title.

In subsection (b), the words "establish rules for its operation" are substituted for "and to make reasonable rules and regulations with respect to their operation" from 49:1(4) for clarity, and the word "reasonable" is omitted in view of section 10701 of the revised title. The words "for services related to the through route" are substituted for "those entitled thereto" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10705, 11126 of this title.

§ 10704. Authority and criteria: rates, classifications, rules, and practices prescribed by Interstate Commerce Commission

(a)(1) When the Interstate Commerce Commission, after a full hearing, decides that a rate charged or collected by a carrier for transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, or that a classification, rule, or practice of that carrier, does or will violate this subtitle, the Commission may prescribe the rate (including a maximum or minimum rate, or both), classification, rule, or practice to be followed. The Commission may order the carrier to stop the violation. When a rate, classification, rule, or practice is prescribed under this subsection, the affected carrier may not publish, charge, or collect a different rate and shall adopt the classification and observe the rule or practice prescribed by the Commission.

(2) The Commission shall maintain standards and procedures for establishing revenue levels for rail carriers providing transportation subject to its jurisdiction under that subchapter that are adequate, under honest, economical, and efficient management, to cover total operating expenses, including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business. The Commission shall make an adequate and continuing effort to assist those carriers in attaining revenue levels prescribed under this paragraph. However, a rate, classification, rule, or practice of a rail carrier may be maintained at a particular level to protect the traffic of another carrier or mode of transportation only if the Commission finds that the rate or classification, or rule or practice related to it, reduces or would reduce the going concern value of the carrier charging the rate. Revenue levels established under this paragraph should—

(A) provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and cover the effects of inflation; and

(B) attract and retain capital in amounts adequate to provide a sound transportation system in the United States.

(b)(1) When the Commission decides that a rate charged or collected by—

(A) a motor common carrier for providing transportation subject to its jurisdiction under subchapter II of chapter 105 of this title by itself, with another motor common carrier, with a rail, express, or water common carrier, or any of them;

(B) a water common carrier for providing transportation subject to its jurisdiction under subchapter III of chapter 105 of this title; or

(C) a freight forwarder for providing service subject to its jurisdiction under subchapter IV of chapter 105 of this title;

or that a classification, rule, or practice of that carrier, does or will violate this chapter, the Commission shall prescribe the rate (including a maximum or minimum rate, or both), classification, rule, or practice to be followed.

(2) When prescribing a rate, classification, rule, or practice for transportation or service by common carriers other than by rail carrier, the Commission shall consider, among other factors, the following:

(A) the effect of the prescribed rate, classification, rule, or practice on the movement of traffic by that carrier; and

(B) the need for revenues that are sufficient, under honest, economical, and efficient management, to let the carrier provide that transportation or service.

(3) If the carrier is a motor or water common carrier or a freight forwarder, the Commission shall also consider the need, in the public interest, of adequate and efficient transportation or service by that carrier at the lowest cost consistent with providing that transportation or service.

(4) If the carrier is a motor common carrier or a freight forwarder, the Commission shall also consider the inherent advantages of transportation by motor common carrier or the inherent nature of freight forwarding, respectively.

(c)(1) When the Commission finds that a minimum rate of a contract carrier for transportation subject to the jurisdiction of the Commission under subchapter II or III of chapter 105 of this title, or a rule or practice related to the rate or the value of the service under it, violates this chapter or the transportation policy of section 10101 of this title, the Com-

mission may prescribe the minimum rate, rule, or practice for the carrier that is desirable in the public interest and will promote that policy. In prescribing the rate, the Commission may not give a motor or water contract carrier an advantage or preference in competition with a motor or water common carrier, respectively, if an advantage or preference is unreasonable or inconsistent with the public interest and the transportation policy of section 10101 of this title.

(2) When prescribing a minimum rate, or rule or practice related to a rate, for a contract carrier, the Commission shall consider—

(A) the cost of the transportation provided by the carrier; and

(B) the effect of a prescribed minimum rate, or rule or practice, on the movement of traffic by that carrier.

(d) In a proceeding involving competition between carriers of different modes of transportation subject to this subtitle, except rail carriers, the Commission, in determining whether a rate is less than a reasonable minimum rate, shall consider the facts and circumstances involved in moving the traffic by the mode of carrier to which the rate is applicable. Subject to the transportation policy of section 10101 of this title, rates of a carrier may not be maintained at a particular level to protect the traffic of another mode of transportation.

(e) In a proceeding involving a proposed increase or decrease in rail carrier rates, the Commission shall specifically consider allegations that the increase or decrease would (1) change the rate relationships between commodities, ports, places, regions, areas, or other particular descriptions of traffic (without regard to previous Commission consideration or approval of those relationships), and (2) have a significant adverse effect on the competitive position of shippers or consignees served by the rail carrier proposing the increase or decrease. The Commission shall investigate to determine whether the change or effect violates this subtitle when it finds that those allegations are substantially supported on the record. The investigation may be made either before or after the proposed increase or decrease becomes effective and either in that proceeding or in another proceeding.

(f) The Commission may begin a proceeding under this section on its own initiative or on complaint. A complaint under subsection (a) of this section must be made under section 11701 of this title, but the proceeding may also be in extension of a complaint pending before the Commission. A complaint under subsection (c) of this section must contain a full statement of the facts and the reasons for the complaint and must be made under oath.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1373.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10704(a)(1).	49:15(1) (less words between 2d and 5th commas).	Feb. 4, 1887, ch. 104, § 15(1), 24 Stat. 384; June 29, 1906, ch. 3591, § 4, 34 Stat. 589; June 18, 1910, ch. 309, § 12, 36 Stat. 551; restated Feb. 28, 1920, ch. 91, § 418, 41 Stat. 484; June 19, 1934, ch. 652, § 602(b), 48 Stat. 1102; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 10(a), 54 Stat. 911.
10704(a)(2).	49:15a(1), (4).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 15a(1)–(5); added Feb. 28, 1920, ch. 91, § 422, 41 Stat. 488; June 16, 1933, ch. 91, § 205, 48 Stat. 220; Aug. 12, 1958, Pub. L. 85–625, § 6, 72 Stat. 572; Feb. 5, 1976, Pub. L. 94–210, §§ 203(b), 205, 90 Stat. 39, 41.
10704(b)(1).	49:316(e) (2d sentence less words between 2d and 3d commas, 2d cl., and proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 216(e) (2d sentence less 2d cl., and less proviso), (i); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 558, 560; Sept. 18, 1940, ch. 722, § 22(d), 54 Stat. 924.
	49:907(b) (less words between 2d and 3d commas).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 307(b), (f), (h); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 937–939.
	49:1006(b) (less words between 2d and 3d commas).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 406(b), (d); added May 16, 1942, ch. 318, § 1, 56 Stat. 288.
10704(b)(2)–(4).	49:15a(2). 49:316(i). 49:907(f). 49:1006(d).	
10704(c).....	49:318(b) (less 1st sentence words between 2d and 3d commas, and less 3d sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 218(b); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 562; restated Sept. 18, 1940, ch. 722, § 23(b), 54 Stat. 925.
	49:907(h) (less 1st sentence words between 2d and 3d commas, and less last sentence).	
10704(d).....	49:15a(3).	
10704(e).....	49:15a(5).	
10704(f).....	49:15(1) (words between 2d and 5th commas). 49:316(e) (2d sentence words between 2d and 3d commas). 49:318(b) (1st sentence words between 2d and 3d commas and last sentence). 49:907(b) (words between 2d and 3d commas), (h) (1st sentence words between 2d and 3d commas and last sentence). 49:1006(b) (words between 2d and 3d commas).	

In this section, the text of 49:15a(1) is omitted as unnecessary in view of the definition of "rate" in section 10102 of the revised title and incorporation of the words "classification, rule, . . . practice" in the section. The word "rule" is substituted for "regulation" when referring to carriers for consistency. The words "individual and joint rate" are omitted as included in the word "rate".

In subsection (a)(1), the word "decides" is substituted for "is of the opinion" as being more appropriate. The word "demanded" is omitted as surplus. The word "transportation" is substituted for "the transportation of persons or property, as defined in section 1 of this title" for consistency in view of the definition of "transportation" in section 10102 of this title. The words "does or will violate this subtitle" are substituted for "is or will be unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this chapter" for clarity since the criteria for lawfulness are consolidated in this chapter and in chapter 119 of the revised title. The word "may" is substituted for "is authorized and empowered" as being more appropriate. The words "to determine" are omitted as surplus. The words "just and reasonable" are omitted as unnecessary in view of section 10701 of the revised title. The word "stop" is substituted for "cease and desist" to eliminate redundancy. The words "to the extent to which the Commission finds that the same does or will exist" are omitted as surplus since section 10321 of the revised title requires the Commission to carry out the subtitle. The words "or in excess of the maximum or less than the minimum so prescribed" are omitted as unnecessary in view of the restatement of section 49:15(1) in this subsection.

In subsection (a)(2), the words "for rail carriers" are substituted for "With respect to common carriers by railroad" for consistency. The words after the 2d comma and before the beginning parentheses in 49:15a(4) are omitted as executed. The word "maintain" is substituted for "and thereafter revise and maintain" to eliminate redundancy. The word "reasonable" is substituted for "fair, reasonable" as being inclusive. See the revision note to section 10101 of the revised title. The words "maintained at" are substituted for "be held up to" for clarity.

In subsection (b)(2), the words "after hearing" are omitted as unnecessary in view of subchapter II of chapter 103 of the revised title and subchapter II of chapter 5 of title 5. The words "lawful . . . thereafter to be made effective" are omitted as surplus. The words "when prescribing" are substituted for "In the exercise of its power to prescribe" for clarity. The words "just and reasonable" are omitted as unnecessary. The words "shall consider" are substituted for "shall give due consideration to" for clarity. The words between the 1st and last semicolons in 49:15a(2) (1st sentence) are omitted as repealed by section 205 of the Railroad Revitalization and Regulatory Reform Act of 1976 (90 Stat. 41).

In subsection (c), the words "transportation policy of section 10101 of this title" are substituted for "national transportation policy declared in this Act" for consistency. The word "violates" is substituted for "contravenes" and "in contravention" as being more appropriate. The words "as in its judgment may be" are omitted as surplus. The word "necessary" is omitted as surplus.

In subsection (d), the words "maintained at" are substituted for "held up to" for clarity. The word "unreasonable" is substituted for "undue" for clarity. See the revision note to section 10101 of the revised title. The last sentence of 49:15a(3) is omitted as unnecessary in view of the restatement.

In subsection (e), the word "places" is substituted for "points" for consistency. The words "without regard to" are substituted for "whether or not" for clarity. The words "rail carrier" are substituted for "railroad" for clarity. The words "to determine whether the change or effect violates this subtitle" is substituted for "lawfulness of such change or effect" for consistency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11705 of this title.

§ 10705. Authority: through routes, joint classifications, rates, and divisions prescribed by Interstate Commerce Commission

(a)(1) The Interstate Commerce Commission may, and shall when it considers it desirable in the public interest, prescribe through routes, joint classifications, joint rates (including maximum or minimum rates or both), the division of joint rates, and the conditions under which those routes must be operated, for a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II (except a motor common carrier of property), or III of chapter 105 of this title. When one of the carriers on a through route is a water carrier, the Commission shall prescribe a differential between an all-rail rate and a joint rate related to the water carrier if the differential is justified.

(2) The Commission may require a rail carrier to include in a through route substantially less than the entire length of its railroad and any intermediate railroad operated with it under common management or control if that intermediate railroad lies between the terminals of the through route only when—

(A) required under section 10741–10744 or 11103 of this title;

(B) one of the carriers is a water carrier;

(C) inclusion of those lines would make the through route unreasonably long when compared with a practicable alternative through route that could be established; or

(D) the Commission decides that the proposed through route is needed to provide adequate, and more efficient or economic, transportation.

The Commission shall give reasonable preference, subject to this subsection, to the rail carrier originating the traffic when prescribing through routes.

(3) The Commission may not prescribe—

(A) a through route, classification, practice, or rate between a street electric passenger railway not engaged in the general business of transporting freight in addition to its passenger and express business and (i) a rail carrier of a different character, or (ii) a water common carrier; or

(B) a through route or joint rate applicable to it to assist a participating carrier to meet its financial needs.

(b) The Commission shall prescribe the division of joint rates to be received by a carrier providing transportation subject to its jurisdiction under chapter 105 of this subtitle when it decides that a division of joint rates established by the participating carriers under section 10703 of this title, or under a decision of the Commission under subsection (a) of this section, does or will violate section 10701 of this

title. When prescribing the division of joint rates of a rail or water carrier under this subsection, the Commission shall consider—

(1) the efficiency with which the carriers concerned are operated;

(2) the amount of revenue required by the carriers to pay their operating expenses and taxes and receive a fair return on the property held and used for transportation;

(3) the importance of the transportation to the public;

(4) whether a particular participating carrier is an originating, intermediate, or delivering line; and

(5) other circumstances that ordinarily, without regard to the mileage traveled, entitle one carrier to a different proportion of a rate than another carrier.

(c) If a division of a joint rate prescribed under a decision of the Commission is later found to violate section 10701 of this title, the Commission may decide what division would have been reasonable and order adjustment to be made retroactive to the date the complaint was filed, the date the order for an investigation was made, or a later date that the Commission decides is justified. The Commission may make a decision under this paragraph effective as part of its original decision.

(d) When the Commission suspends, for investigation, a rail or water common carrier tariff that would cancel a through route, joint rate, or classification without the consent of all carriers that are parties to it or without authorization of the Commission, the carrier proposing the cancellation has the burden of proving that cancellation is consistent with the public interest without regard to subsection (a)(2) of this section. In determining whether a cancellation involving a rail carrier is consistent with the public interest, the Commission shall, to the extent applicable—

(1) compare the distance traveled and the average transportation time and expense required using (A) the through route, and (B) alternative routes, between the places served by the through route;

(2) consider any reduction in energy consumption that may result from cancellation; and

(3) consider the overall impact of cancellation on the shippers and carriers that are affected by it.

(e)(1) The Commission may begin a proceeding under subsection (a) or (b) of this section on its own initiative or on complaint and may take action only after a full hearing. The Commission must complete all evidentiary proceedings to adjust the division of joint rates for transportation by rail carrier within one year after the complaint is filed if the proceeding is brought on complaint or within 2 years after the commencement of a proceeding on the initiative of the Commission and must take final action by the 270th day after completion of the evidentiary proceedings. The Commission may decide to extend such a proceeding to permit its fair and expeditious completion, but when the Commission cannot meet those time limits, it must report its reasons to Congress.

(2) When a carrier begins a proceeding to adjust the division of joint rates for transportation by a rail carrier under this section by filing a complaint with the Commission, the carrier must also file all of the evidence in support of its position with the complaint and, during the course of the proceeding may only file rebuttal or reply evidence unless otherwise ordered by the Commission.

(3) When the Commission receives a notice of intent to begin a proceeding to adjust the division of joint rates for transportation by a rail carrier under this section, the Commission shall allow the party filing the notice the same right to discovery that a party would have on filing a complaint under this section.

(f) When there is a shortage of equipment, congestion of traffic, or other emergency declared by the Commission, it may prescribe temporary through routes that are desirable in the public interest on its own initiative or on application without regard to subsection (e) of this section, subchapter II of chapter 103 of this title, and subchapter II of chapter 5 of title 5.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1375.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10705(a)(1).	49:15(3) (1st sentence less words between 2d and 3d commas).	Feb. 4, 1887, ch. 104, § 15(3), (4), (6), 24 Stat. 384; June 29, 1906, ch. 3591, § 4, 34 Stat. 589; June 18, 1910, ch. 309, § 12, 36 Stat. 551; Feb. 28, 1920, ch. 91, § 418, 41 Stat. 484; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 10(b), 54 Stat. 911; Feb. 5, 1976, Pub. L. 94-210, §§ 201, 203(a), 90 Stat. 34, 39.
	49:316(e) (2d sentence 2d cl. less words between 2d and 3d commas).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 216(e) (2d sentence 2d cl.), (f); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 558.
	49:907(d) (1st sentence less words between 2d and 3d commas, 2d sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 307(d), (e); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 937.
10705(a)(2).	49:15(4) (1st sentence).	
10705(a)(3).	49:15(3) (2d sentence), (4) (2d sentence).	
	49:907(d) (3d sentence).	
10705(b), (c).	49:15(6)(a) (less words between 2d and 3d commas in 1st sentence).	
	49:316(f) (less words between 1st and 3d commas in 1st sentence).	
	49:907(e) (less words between 1st and 2d commas in 1st sentence).	
10705(d).....	49:15(3) (less 1st and 2d sentences).	
	49:907(d) (less 1st, 2d, and 3d sentences).	

HISTORICAL AND REVISION NOTES—Continued

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10705(e)(1).	49:15(3) (1st sentence words between 2d and 3d commas), (6)(a) (1st sentence words between 2d and 3d commas), (b), (c). 49:316(e) (2d sentence words between 2d and 3d commas in 2d cl.), (f) (1st sentence words between 1st and 3d commas). 49:907(d) (1st sentence words between 2d and 3d commas), (e) (1st sentence words between 1st and 2d commas).	
10705(e)(2).	49:15(6)(d) (1st sentence).	
10705(e)(3).	49:15(6)(d) (less 1st sentence).	
10705(f).....	49:15(4) (less 1st and 2d sentences).	

Throughout the section, the word "rates" is substituted for "rates, fares, or charges" in view of the definition of "rate" in section 10102 of the revised title. The words "of passengers or property" are omitted as surplus. The word "conditions" is substituted for "terms" and "conditions" to eliminate redundancy.

In subsection (a)(1), the words "In case of a through route" in 49:907(d) are omitted as surplus.

In subsection (a)(2), the words "In establishing any such through route" are omitted as unnecessary in view of the restatement. The words "required under section 10741-10744 or 11103 of this title" are substituted for "except as provided in section 3 of this title" as being more appropriate. The word "include" is substituted for "embrace" as being more appropriate. The words "in conjunction" are omitted as surplus. The last sentence is substituted for 49:15(4) (proviso) for clarity. The words "so far as is consistent with the public interest" are omitted as unnecessary because they are included in "subject to this subsection."

In subsection (b), the words "applicable to the transportation of passengers or property" are omitted as unnecessary in view of the restatement. The words "unjust, unreasonable, inequitable, or unduly preferential or prejudicial" are omitted as unnecessary in view of the cross reference to section 10701 of the revised subtitle in which the standards for division of joint rates are restated. The words "by order" are omitted as surplus. The words "just, reasonable and equitable" are omitted as unnecessary in view of section 10701 of the revised title. Also, see the revision note to section 10101 of the revised title. The word "traveled" is substituted for "haul" for clarity. The words "in accordance therewith" are omitted as surplus. The words "when prescribing" are substituted for "prescribing" and "determining" for consistency. The word "due" is omitted as surplus. The words "for transportation" are substituted for "in the service of transportation" for consistency. The words "among other things" are omitted as surplus.

In subsection (c), the word "retroactive" is substituted for "for the period subsequent" for clarity.

In subsection (d), the word "tariff" is substituted for "tariff or schedule" for consistency and in view of the definition of "tariff" in section 10102 of the revised title. The word "involving" is substituted for "With respect to" as being more appropriate. The words "proposed cancellation" are omitted as being included in "cancellation". The word "places" is substituted for "points" as being more appropriate.

In subsection (e)(1), the words "full hearing" are substituted for "hearing" in 49:316(f) (1st sentence words between 1st and 3d commas) 907(e) (1st sentence words between 1st and 2d commas) for consistency. The words "The Commission may decide to extend" are substituted for "unless the Commission finds that . . . must be extended" in 49:15(6)(c) for clarity. The words "shall issue" in 49:15(6)(c) are omitted as surplus. The 1st sentence of 49:15(6)(b) is omitted as executed. The words "must take final action by the 270th day after completion of the evidentiary proceedings" are substituted for "shall issue a final order . . . within 270 days after the submission to the Commission of a case" for clarity. See, report of the committee of conference on S. 2718 (S. Rep. 94-595), pages 144-145.

In subsection (e) (2) and (3), the words "whether prescribed by the Commission or otherwise established" are omitted as surplus. The words "also file . . . with the complaint" are substituted for "attach thereto" as being more appropriate. The word "allow" is substituted for "accord" for clarity.

In subsection (f), the word "When" is substituted for "In time of" for clarity. The cross reference to subchapter II of chapter 103 of the revised title and to title 5 are substituted for "at once, if it so orders, without answer or other formal pleadings by the interested carrier or carriers, and with or without notice, hearing, or the making or filing of a report" for consistency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11705 of this title.

§ 10706. Rate agreements: exemption from antitrust laws

(a)(1) In this subsection—

(A) "affiliate" means a person controlling, controlled by, or under common control or ownership with another person and "ownership" refers to equity holdings in a business entity of at least 5 percent.

(B) "single-line rate" refers to a rate or allowance proposed by a single rail carrier that is applicable only over its line and for which the transportation (exclusive of terminal services by switching, drayage or other terminal carriers or agencies) can be provided by that carrier.

(2)(A) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title that is a party to an agreement of at least 2 rail carriers or an agreement with a class of carriers referred to in subsection (c)(1)(B)-(E) of this section, that relates to rates (including charges between rail carriers and compensation paid or received for the use of facilities and equipment), classifications, divisions, or rules related to them, or procedures for joint consideration, initiation, or establishment of them, shall apply to the Commission for approval of that agreement under this subsection. The Commission shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy of section 10101 of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of its approval. If the Commission approves the agreement, it may be made and carried out under its terms and under the conditions required by the Commission, and the Sherman Act (15 U.S.C. 1, et seq.), the Clayton Act (15 U.S.C. 12, et seq.), the

Federal Trade Commission Act (15 U.S.C. 41, et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936, as amended (15 U.S.C. 13, 13a, 13b, 21a) do not apply to parties and other persons with respect to making or carrying out the agreement. However, the Commission may not approve or continue approval of an agreement when the conditions required by it are not met or if it does not receive a verified statement under subparagraph (B) of this paragraph.

(B) The Commission may approve an agreement under subparagraph (A) of this paragraph only when the carriers applying for approval file a verified statement with the Commission. Each statement must specify for each rail carrier that is a party to the agreement—

(i) the name of the carrier;

(ii) the mailing address and telephone number of its headquarter's office; and

(iii) the names of each of its affiliates and the names, addresses, and affiliates of each of its officers and directors and of each person, together with an affiliate, owning or controlling any debt, equity, or security interest in it having a value of at least $1,000,000.

(3)(A) An organization established or continued under an agreement approved under this subsection shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed. Such an organization may not—

(i) permit a rail carrier to participate in agreements related to, or to vote on single-line rates proposed by another rail carrier, or on rates related to a particular interline movement unless that rail carrier can practicably participate in that movement; or

(ii) permit, provide for, or establish a procedure for joint consideration or joint action to protest or seek the suspension of a rate or classification filed by a rail carrier under section 10707 of this title when that rate or classification is established by independent action.

(B) Subparagraph (A)(i) and (ii) of this paragraph does not apply to—

(i) general rate increases or decreases if the agreement gives shippers, under specified procedures, at least 15 days' notice of the proposal and an opportunity to present comments on it before a tariff containing the increases or decreases is filed with the Commission; or

(ii) broad tariff changes that are of at least substantially general application throughout the area where the changes will apply.

(C) In any proceeding in which a party alleges that a rail carrier voted or agreed on a rate or allowance in violation of this subsection, that party has the burden of showing that the vote or agreement occurred. A showing of parallel behavior does not satisfy that burden by itself.

(b) A common carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title (except a rail carrier) that is a party to an agreement of at least 2 carriers related to rates (including charges between carriers and compensation paid or received for the use of facilities and equipment), allowances, classifications, divisions, or rules related to them, or procedures for joint consideration, initiation, or establishment of them, may apply to the Commission for approval of that agreement under this subsection. The Commission shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy of section 10101 of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of approval. If the Commission approves the agreement, it may be made and carried out under its terms and under the conditions required by the Commission, and the antitrust laws, as defined in section 12 of title 15, do not apply to parties and other persons with respect to making or carrying out the agreement.

(c)(1) In this subsection, carriers are classified as follows:

(A) Rail, express, and sleeping car carriers are a class.

(B) Pipeline carriers are a class.

(C) Motor carriers are a class.

(D) Water carriers are a class.

(E) Freight forwarders are a class.

(2) The Commission may not approve an agreement under this section.[1]

(A) between or among carriers of different classes unless, in addition to the finding required under subsection (a) or (b) of this section, the Commission finds that the agreement is limited to matters related to transportation under joint rates or over through routes;

(B) related to a pooling, division, or other matter to which subchapter III of chapter 113 of this title applies; or

(C) establishing a procedure for determination of a matter through joint consideration unless the Commission finds that each party to the agreement has the absolute right under it to take independent action before or after a determination is made under that procedure.

(d) The Commission may require an organization established or continued under an agreement approved under this section to maintain records and submit reports. The Commission, or its delegate, may inspect a record maintained under this section.

(e) The Commission may review an agreement approved under subsection (a) or (b) of this section and shall change the conditions of approval or terminate it when necessary to comply with (1) the public interest and subsection (a), or (2) subsection (b). The Commission shall postpone the effective date of a change of an agreement under this subsection for whatever period it determines to be reasonably necessary to avoid unreasonably hardship.

(f) The Commission may begin a proceeding under this section on its own initiative or on application. Action of the Commission under this section (1) approving an agreement, (2) denying, ending, or changing approval, (3) prescribing the conditions on which approval is grant-

[1] So in original. The period probably should be a dash.

ed, or (4) changing those conditions, has effect only as related to application of the antitrust laws referred to in subsection (a) or (b) of this section.

(g) The Commission shall review each agreement approved under subsection (a) of this section periodically, but at least once every 3 years (1) to determine whether the agreement or an organization established or continued under one of those agreements still complies with the requirements of that subsection and the public interest, and (2) to evaluate the success and effect of that agreement or organization on the consuming public and the national rail freight transportation system. If the Commission finds that an agreement or organization does not conform to the requirements of that subsection, it shall end or suspend its approval. The Commission shall report to the President and Congress the results of the review as a part of its annual report under section 10311 of this title.

(h)(1) The Federal Trade Commission, in consultation with the Antitrust Division of the Department of Justice, shall prepare periodically an assessment of, and shall report to the Commission on—

(A) possible anticompetitive features of—

(i) agreements approved or submitted for approval under subsection (a) of this section; and

(ii) an organization operating under those agreements; and

(B) possible ways to alleviate or end an anticompetitive feature, effect, or aspect in a manner that will further the goals of this subtitle and of the transportation policy of section 10101 of this title.

(2) Reports received by the Commission under this subsection shall be published and made available to the public under section 552(a) of title 5.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1377.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10706(a)(1)(A).	49:5c(1)(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 5b; added Feb. 5, 1976, Pub. L. 94–210, § 208(b), 90 Stat. 42; Oct. 19, 1976, Pub. L. 94–555, § 220(k), 90 Stat. 2630.
10706(a)(1)(B).	49:5c(5)(a) (last sentence).	
10706(a)(2).	49:5c(1)(b), (c), (2), (8).	
10706(a)(3)(A).	49:5c(5)(a) (less 1st and last sentences), (11).	
10706(a)(3)(B).	49:5c(5)(b) (1st sentence).	
10706(a)(3)(C).	49:5c(5)(b) (less 1st sentence).	
10706(b)	49:5b (less (3)–(7) and less (10)).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 5a; added June 17, 1948, ch. 491, § 1, 62 Stat. 472; Feb. 5, 1976, Pub. L. 94–210, § 208(a), 90 Stat. 42.
10706(c)(1).	49:5b(4) (last cl.)	
10706(c)(2).	49:5b(4) (less last cl.), (5), (6), 5c(4), (5)(a) (1st sentence).	
10706(d)	49:5b(3), 5c(3) (1st and 2d sentences).	
10706(e)	49:5b(7), 5c(6)(a).	
10706(f)	49:5b(10), 5c(7), (9).	
10706(g)	49:5c(3) (last sentence), (6)(b).	
10706(h)	49:5c(10).	

HISTORICAL AND REVISION NOTES—Continued

In this section, the word "rates" is substituted for "rates, fares" because of the definition of "rate" in section 10102 of this title. The words "allowances" and "charges" are retained in view of the context. The word "rules" is substituted for "rules and regulations" for consistency when referring to carriers.

In subsection (a)(1), the words "directly or indirectly" from 49:5c(1)(a) are omitted as surplus, and 49:5c(1)(C) is omitted as unnecessary. The definition of "single-line rate" contained in the text of 49:5c(5)(a) (last sentence) is included for consistency.

In subsection (a)(2), the words "or an agreement with a class of carriers referred to in subsection (c)(1)(B)–(E) of this section" are inserted for clarity in view of the amendment made by section 208(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 that removed rail carriers from 49:5b but did not specifically resolve the question of which section governs intermodal agreements by rail carriers. The words inserted in the revised section require rail carriers that make intermodal agreements to comply with 49:5c to reflect the ambiguity. The words "under such rules and regulations as the Commission shall prescribe" are omitted as unnecessary in view of the general power to prescribe regulations under section 10321 of the revised title. The words "by order" are omitted as surplus. The words "if approval is not prohibited by paragraph (4) or (5)" are omitted as unnecessary in view of the restatement. The words "will further" are substituted for "by reason of furtherance of" for clarity. The word "only" is substituted for "otherwise the application shall be denied" for clarity. The words "may require compliance with conditions necessary to make the agreement further that policy as a condition of approval" are substituted for "approval . . . shall be granted only upon such terms and conditions . . . necessary . . . to enable its approval to be granted in accordance with the standard set forth in this paragraph" for clarity. The 3d sentence restates 49:5c(8) for clarity. The word "written" in 49:5c(2) is omitted as unnecessary in the 4th sentence. 49:5c(2)(v) is omitted as unnecessary because of section 10321 of the revised title giving the Commission the authority to carry out the subtitle and to prescribe regulations.

In subsection (a)(3)(A), the word "organization" is substituted for "conference, bureau, committee, or other organization" as being more inclusive. In subsection (a)(3)(A)(i), 49:5c(5)(a) (i) and (ii) are consolidated to eliminate redundancy. The words "of the same mode" are omitted as surplus since this subsection applies only to rail carriers. The words "under section 10707 of this title" are substituted for "pursuant to section 15(8) of this chapter" to conform to the revised title.

In subsection (a)(3)(B), the words "Subparagraph (A)(i) and (ii) of this paragraph" are substituted for "limitations set forth in subdivision (a) shall not be applicable" for clarity. The word "shippers" is substituted for "shipping public" as being more precise. The words "in writing or otherwise" are omitted as surplus. The words "that are" are substituted for "if such changes are" for clarity. The word "area" is substituted for "territory or territories" as being more precise.

In subsection (b), the definitions of 49:5b(1) are omitted as unnecessary in view of the restatement. The words "under such rules and regulations as the Commission may prescribe" are omitted as unnecessary in view of the general power to prescribe regula-

tions under section 10321 of the revised title. The words "by order" are omitted as surplus. The words "if approval thereof is not prohibited by paragraph (4), (5), or (6) of this section" are omitted as unnecessary in view of the restatement. The words "will further" are substituted for "by reason of furtherance" for clarity. The word "only" is substituted for "otherwise the application shall be denied" for clarity. The words "may require compliance with conditions necessary to make the agreement further that policy as a condition of approval" are substituted for "upon such terms and conditions as the Commission may prescribe as necessary to enable it to grant its approval in accordance with the standard above set forth in this paragraph" for clarity.

In subsection (c)(1), the reference to rail carriers in a class is retained to reflect the ambiguity resulting from the amendment made by section 208(a) of the Railroad Revitalization and Regulatory Reform Act of 1976.

In subsection (c)(2), the words "which it finds" are omitted as unnecessary. The word "absolute" is substituted for "free and unrestrained" as being more appropriate. The words "without fear of any sanction or retaliatory action" are omitted as included in the words "absolute right".

In subsection (d), the word "records" is substituted for "accounts, records, files, and memoranda" to eliminate redundancy and for consistency with other sections of the revised title and with subchapter II of chapter 5 of title 5. The words "or its delegate" are substituted for "its duly authorized representatives" for clarity.

In subsection (e), the words "upon complaint or upon its own initiative without complaint" are omitted in view of subsection (f). The word "review" is substituted for "investigate and determine" in view of the general authority to carry out the subtitle in section 10321 of the revised subtitle. The words "or terms and conditions upon which such approval was granted" are omitted as surplus in view of the restatement. The word "change" is substituted for "modify" for consistency. The words "when necessary to comply with (1) the public interest and subsection (a), or (2) subsection (b)" are substituted for "if it finds such action necessary to insure conformity with such standard . . . to the extent it finds necessary to insure conformity with such standard or to the extent to which it finds such terms and conditions not necessary to insure such conformity" for clarity.

In subsection (f), the text of 49:5b(8) is omitted as surplus in view of subchapter II of chapter 5 of title 5 and subchapter II of chapter 103 of the revised title.

In subsection (g), the words "which the Commission has by order" are omitted as surplus. The word "organization" is substituted for "conference, bureau, committee, or other organization" as being more inclusive. The last sentence of 49:5c(3) is omitted as surplus in view of chapter 103 of the revised title, the authority of the Commission under subsection (d), and the requirement imposed on the Commission under this subsection.

In subsection (h), the last sentence is substituted for 49:5c(10) (last sentence) for clarity and consistency with section 10310(b) of the revised title.

REFERENCES IN TEXT

The Sherman Act, referred to in subsec. (a)(2)(A), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

The Clayton Act, referred to in subsec. (a)(2)(A), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, which is classified generally to sections 12, 13, 14 to 19, 20, 21, and 22 to 27 of Title 15, Commerce and Trade, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act, referred to in subsec. (a)(2)(A), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

Sections 73 and 74 of the Wilson Tariff Act, referred to in subsec. (a)(2)(A), are sections 73 and 74 of act Aug. 27, 1894, ch. 349, 28 Stat. 570, which enacted sections 8 and 9, respectively, of Title 15, Commerce and Trade.

The Act of June 19, 1936 referred to in subsec. (a)(2)(A), is act June 19, 1936, ch. 592, 49 Stat. 1526, as amended, popularly known as the Robinson-Patman Anti-discrimination Act, which enacted sections 13a, 13b, and 21a of Title 15, Commerce and Trade, and amended section 13 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 13 of Title 15 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10721 of this title.

§ 10707. Investigation and suspension of new rail carrier rates, classifications, rules, and practices

(a) When a new individual or joint rate or individual or joint classification, rule, or practice related to a rate is filed with the Interstate Commerce Commission by a rail carrier providing transportation subject to its jurisdiction under subchapter I of chapter 105 of this title, the Commission may begin a proceeding, on its own initiative or on complaint of an interested party, to determine whether the proposed rate, classification, rule, or practice violates this subtitle. The Commission must give reasonable notice to interested parties before beginning a proceeding under this subsection but may act without allowing an interested party to file an answer or other formal pleading in response to its decision to begin the proceeding.

(b)(1) The Commission must complete a proceeding under this section and make its final decision by the end of the 7th month after the rate, classification, rule, or practice was to become effective. However, if the Commission reports to Congress by the end of the 7th month that it cannot make a final decision by that time and explains the reason for the delay, it may take an additional 3 months to complete the proceeding and make its final decision. If the Commission does not reach a final decision within the applicable time period, the rate, classification, rule, or practice—

(A) is effective at the end of that time period; or

(B) if already in effect at the end of that time period, remains in effect.

(2) If an interested party has filed a complaint under subsection (a) of this section, the Commission may set aside a rate, classification, rule, or practice, that has become effective under this section if the Commission finds it to be in violation of this chapter.

(c)(1) Pending final Commission action in a proceeding under subsection (a) of this section, the Commission may suspend the proposed rate, classification, rule, or practice for 7 months after the time it would otherwise go into effect or, if a report is made under subsection (b) of this section, for 10 months after the time it would otherwise go into effect. However,

the Commission may suspend a rate under this subsection only if it appears from specific facts shown by the verified complaint of a person that—

(A) without suspension, the proposed rate change will cause substantial injury to the complainant or the party represented by the complainant; and

(B) it is likely that the complainant will prevail on the merits.

(2) The burden is on the complainant to prove the facts required under paragraph (1)(A) and (B) of this subsection.

(d) If the Commission does not suspend a proposed rate increase that is the subject of a proceeding under this section, the Commission shall require the rail carriers involved to account for all amounts received under the increase until the Commission completes the proceeding or until 7 months after the increase becomes effective, whichever occurs first, or, if the proceeding is extended under subsection (b) of this section, until the Commission completes the proceeding or until 10 months after the increase becomes effective, whichever occurs first. The accounting must specify by whom and for whom the amounts are paid. When the Commission takes final action, it shall require the carrier to refund to the person for whom the amounts were paid that part of the increased rate found to be unjustified, plus interest at a rate equal to the average yield (on the date the proposed increase is filed) of marketable securities of the United States Government having a duration of 90 days. When any part of a proposed rate decrease is suspended and later found to comply with this subtitle, the rail carrier may refund any part of the portion of the decrease found to comply with this subtitle if the carrier makes the refund available equally to the shippers who participate in the rate according to the relative amounts of traffic shipped at that rate.

(e) In a proceeding under this section, the burden is on the carrier proposing the changed rate, classification, rule, or practice to prove that the change is reasonable. The Commission shall specifically consider proof that the proposed rate, classification, rule, or practice will have a significantly adverse effect (in violation of section 10701, 10741–10744, or 11103 of this title) on the competitive posture of shippers or consignees affected by the proposed rate, classification, rule, or practice. The Commission shall give proceedings under this section preference over all other proceedings related to rail carriers pending before it and make its decision at the earliest practical time.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1380.)

AMENDMENT SUBSEQUENT TO MAY 15, 1978

Section 15(8) of this title, from which this section was derived, was amended by Pub. L. 95–607, title IV, § 401, Nov. 8, 1978, 92 Stat. 3067, see section 15(8) of this title. See also section 3(a) of Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1466, set out as a note preceding chapter 101 of this title.

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10707(a).....	49:15(8)(a) (1st and 2d sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 15(8); added Feb. 5, 1976, Pub. L. 94-210, § 202(e)(2), 90 Stat. 36.
10707(b)-(e).	49:15(8) (less (a) 1st and 2d sentences).	

In 49:15(8), the words after the 4th comma in subsection (b), subsections (c) and (d) (last sentence) are omitted from the restatement as executed, effective January 1, 1978.

In subsection (a), the word "schedule" is omitted for consistency. The word "rate" is substituted for "rates, fare, or charge" in view of the definition of "rate" in section 10102 of the revised title. The words "providing transportation subject to its jurisdiction under subchapter I of chapter 105 of this title" are added to conform to the revision. The word "proceeding" is substituted for "hearing" in view of subchapter II of chapter 5 of title 5. The words "to determine whether . . . violates this section" are substituted for "concerning the lawfulness" for consistency.

In subsection (b), the words "may take an additional 3 months" are substituted for "shall be made not later than 10 months after" for consistency.

In subsection (c), the words "Pursuant to subdivision (d)" are omitted as unnecessary. The words "facts required under paragraph (1) (A) and (B) of this subsection" are substituted for "matters set forth in clauses (i) and (ii) of this subdivision" for clarity.

In subsection (d), the words "When any part of a rate decrease is suspended" are substituted for "With respect to any proposed decreased rate, fare, or charge which is suspended" for clarity. The words "comply with this title" are substituted for "lawful" for clarity and consistency.

In subsection (e), the word "reasonable" is substituted for "just and reasonable" for consistency. See the revision note to section 10101 of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10706, 10709, 10711, 11126 of this title.

§ 10708. Investigation and suspension of new nonrail carrier rates, classifications, rules, and practices

(a)(1) The Interstate Commerce Commission may begin a proceeding to determine the lawfulness of a proposed rate, classification, rule, or practice immediately, on its own initiative or on application of an interested party when—

(A) a new individual or joint rate or individual or joint classification, rule, or practice affecting a rate is filed with the Commission by a common carrier, other than a rail carrier, under this subtitle; or

(B) a new or reduced rate or rule or practice that causes a reduction of a rate is filed with the Commission by a contract carrier under this subtitle.

(2) The Commission must give reasonable notice before beginning a proceeding under this section but may act without allowing an interested carrier to file an answer or other formal pleading in response to its decision to begin the proceeding. The Commission may take whatever final action on a rate, classification, rule, or practice under this section, after a full hearing (whether completed before or after the rate, classification, rule, or practices goes into

effect), as it could in a proceeding begun after a rate, classification, rule, or practice became effective.

(b) Pending final Commission action in a proceeding under subsection (a) of this section, the Commission may suspend the proposed rate, classification, rule, or practice at any time for not more than 7 months beyond the time it would otherwise go into effect by (1) delivering to each affected carrier, and (2) filing with the proposed rate, classification, rule, or practice, a statement of reasons for the suspension. If the Commission does not take final action during the suspension period, the proposed rate, classification, rule, or practice is effective at the end of that period. However, if an increase in a rate for, or related to, transportation of property by an express, sleeping car, or pipeline carrier becomes effective under this subsection, the Commission may require the interested carrier to account for all amounts received under it and specify by whom and on whose behalf those amounts were paid. When the Commission takes final action, it may require the carrier to refund, with interest, to the persons on whose behalf those amounts were paid, the part of the increased rate found to be in violation of this subtitle.

(c) In a proceeding under this section, the burden is on the carrier proposing the changed rate, classification, rule, or practice to prove that the change is reasonable. The Commission shall give proceedings under this section preference over all other proceedings related to that type of carrier pending before it and make its decision at the earliest practical time.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1382.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10708	49:15(7).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 15(7); added June 18, 1910, ch. 309, § 12, 36 Stat. 552; Feb. 28, 1920, ch. 91, § 418, 41 Stat. 486; restated Mar. 4, 1927, ch. 510, § 2, 44 Stat. 1447; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 10(c), 54 Stat. 912; Feb. 5, 1976, Pub. L. 94–210, § 202(e)(1), 90 Stat. 36.
	49:316(g) (less proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 216(g) (less proviso); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 559; Sept. 18, 1940, ch. 722, § 22(c), 54 Stat. 924; June 29, 1938, ch. 811, § 16, 52 Stat. 240.
	49:318(c) (less proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 218(c) (less proviso); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 562; restated Sept. 18, 1940, ch. 722, § 23(c), 54 Stat. 926.

HISTORICAL AND REVISION NOTES—Continued

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49:907(g) (less proviso), (i) (less proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 307(g) (less proviso), (i) (less proviso); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 938.
	49:1006(e) (less proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 406(e) (less proviso); added May 16, 1942, ch. 318, § 1, 56 Stat. 288.

The section restates and consolidates the source provisions for clarity. The word "schedule" is omitted as unnecessary. The word "rate" is substituted for "rate, fare, or charge" in view of the definition of "rate" in section 10102 of this revised title. The word "may" is substituted for "shall have, and it is given, authority," for clarity. The words "without complaint . . . if it so orders" are omitted as surplus. The words "begin a proceeding" are substituted for "to enter upon a hearing" in view of subchapter II of chapter 5 of title 5. The words "suspend the proposed rate, classification, rule, or practice" are substituted for "suspend the operation of schedule and defer the use of such rate, fare, charge, classification, regulation, or practice" for clarity. The words "by order . . . by further order" are omitted as surplus. The words "after September 18, 1940" in 49:15(7), and "(except a schedule referred to in section 922 of this title)" in 49:907(g) and 907(i) are omitted as obsolete. The words "in violation of this subtitle" are substituted for "unjustified" for consistency. The words "shall give proceeding under this section preference over all other proceedings related to that type of carrier" are substituted for "shall give to the hearing and decision of such questions preference over all other questions pending" for clarity. The words "at the earliest practical time" are substituted for "as speedily as possible" for consistency. The last sentence of 49:15(7) is omitted as unnecessary in view of this restatement.

§ 10709. Determination of market dominance in rail carrier rate proceedings

(a) In this section, "market dominance" means an absence of effective competition from other carriers or modes of transportation for the transportation to which a rate applies.

(b) When a rate for transportation by a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title is challenged as being unreasonably high, the Commission shall determine, within 90 days after the start of a proceeding under section 10707 of this title to investigate the lawfulness of that rate, whether the carrier proposing the rate has market dominance over the transportation to which the rate applies. The Commission may make that determination on its own initiative or on complaint. A finding by the Commission that the carrier does not have market dominance is determinative in a proceeding under this subtitle related to that rate or transportation unless changed or set aside by the Commission or set aside by a court of competent jurisdiction.

(c) When the Commission finds in any proceeding that a rail carrier proposing or defending a rate for transportation has market dominance over the transportation to which the rate

applies, it may then determine that rate to be unreasonable if it exceeds a reasonable maximum for that transportation. However, a finding of market dominance does not establish a presumption that the proposed rate exceeds a reasonable maximum. This subsection does not limit the power of the Commission to suspend a rate under section 10707(c) of this title. However, if the Commission has found that a carrier does not have market dominance over the transportation to which the rate applies, the Commission may suspend an increase in that rate as being in excess of a reasonable maximum for that transportation only if it specifically changes or sets aside its prior determination of market dominance.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1382.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10709(a).....	49:1(5)(c)(i).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(5)(b) (7th and 8th sentences), (c)(i); added Feb. 5, 1976, Pub. L. 94–210, § 202(b), 90 Stat. 34.
10709(b).....	49:15(9) (1st and 2d sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 15(9); added Feb. 5, 1976, Pub. L. 94–210, § 202(e)(2), 90 Stat. 36.
10709(c).....	49:1(5)(b) (7th and 8th sentences), 15(9) (less 1st and 2d sentences).	

In subsection (b), the words "providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title" are added for clarity. The words "Following promulgation of standards under section 1(5)(d) of this chapter" are omitted as executed. The word "start" is substituted for "commencement" for clarity. The word "transportation" is substituted for "service" for consistency. The word "change" is substituted for "modify" for consistency.

In subsection (c), the word "However" is substituted for "except that" for clarity. The words "as being in excess" are substituted for "on the ground that such rate as increased exceeds" for clarity. The last 8 words of 49:15(9) are omitted as surplus. The words "Notwithstanding any other provision of this chapter" are omitted as unnecessary. The words "does not establish" are substituted for "shall not create" for clarity. The words "The subsection does not limit" are substituted for "nothing in this paragraph shall limit" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10711 of this title.

§ 10710. Elimination of discrimination against recyclable materials

The Interstate Commerce Commission shall maintain regulations that will eliminate discrimination against the transportation of recyclable materials in rate structures and in other Commission practices where discrimination exists.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1383.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10710.....	45:793.	Jan. 2, 1974, Pub. L. 93–236, § 603, 87 Stat. 1023.

The words "maintain regulations" are substituted for "adopt appropriate rules under the Interstate Commerce Act" for consistency in view of section 10321(a) of the revised title. The words "by expedited proceedings" are omitted as executed.

§ 10711. Effect of certain sections on rail rates and practices

Sections 10701(a) and (b), 10707, 10709, 10727, and 10728 of this title, related to rail carriers, do not—

(1) modify the application of sections 10701(c), 10726, 10741–10744, or 11103 of this title in determining whether a rate or practice complies with this subtitle;

(2) make a competitive practice that is unfair, destructive, predatory, or otherwise undermines competition that is necessary in the public interest comply with this subtitle;

(3) affect a law in existence on February 5, 1976, or the authority of the Interstate Commerce Commission related to rate relationships between ports; or

(4) affect the authority and responsibility of the Commission to guarantee the equalization of rates in the same port.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1383.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10711.....	49:1 (note).	Feb. 5, 1976, Pub. L. 94–210, § 202(f), 90 Stat. 39.

This section is included in the revised subtitle because it has general application to rail carriers. The words "Sections . . . do not" are substituted for "Nothing in the . . . shall be construed" for clarity because of the legal conclusion required by the words being replaced. The references to sections 10701(a) and (b), 10707, 10709, and 10728 are substituted for "the amendments made by this section" to cite the sections of the revised subtitle in which those amendments are codified. Reference to 49:1(5)(d), as added by section 202(b) of Public Law 94–210, is not made because 49:1(5)(d) is executed. See table II-B.

In clause (1), the references to section 10701(c), 10726, 10741–10744, and 11103 are substituted for "section 2, 3, or 4 of the Interstate Commerce Act (49 U.S.C. 2, 3, or 4)" to cite the sections of the revised subtitle in which those sections are codified. The words "complies with this subtitle" are substituted for "the lawfulness" and "lawful" for consistency with other sections of the revised title.

In clause (3), the words "in existence on February 5, 1976" are substituted for "existing law" to reflect the date of enactment of Public Law 94–210.

SUBCHAPTER II—SPECIAL CIRCUMSTANCES

§ 10721. Government traffic

(a)(1) Except as provided in this section, the full applicable commercial rate shall be paid for transportation for the United States Government by a common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under this subtitle. Section 5 of title 41 does not apply when transportation for the United States Government can be obtained from a common carrier lawfully operating in the area where the transportation will be provided. When prescribing rates for transportation or service by those common carriers, the Commission shall consider increased revenues those carriers receive under this subsection to reflect those increases in appropriate readjustments of their rates.

(2) Paragraph (1) of this subsection does not apply, and the law related to compensation for transportation for the United States Government in effect immediately before September 18, 1940, applies to a rail carrier if that carrier, or its predecessor in interest, received a grant of land from the United States to aid in constructing the railroad it operates but did not file a release with the Secretary of the Interior before September 18, 1941, of claims against the United States Government to, or arising out of, lands that were granted, claimed to have been granted, or claimed should have been granted to that carrier or its predecessor in interest. This paragraph does not require a rail carrier to reconvey to the United States land patented or certified to it or prevent the patent of land that the Secretary of the Interior found was sold by the carrier to an innocent purchaser for value or as preventing the patent of land listed or selected by the carrier and finally approved by the Secretary of the Interior to the extent that issuance of those patents is authorized by law.

(b)(1) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title may transport individuals for the United States Government without charge or at reduced rates. The carriers may transport custom inspectors and immigration officers without charge. A common carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title shall provide transportation for the United States Postal Service under chapters 50 and 52 of title 39, and may transport property for the United States Government, a State, or municipal government without charge or at reduced rates.

(2) Unless a carrier is advised by the United States Government that disclosure of a quotation or tender of a rate established under paragraph (1) of this subsection for transportation provided to the United States Government would endanger the national security, the carrier shall file the quoted or tendered rate, including a retroactive rate made after the transportation has been provided, concurrently, with the Commission and the department, agency, or instrumentality of the United States Government for which the quotation or tender was made or for which the proposed transportation is to be provided. A carrier may quote or tender a rate established under an agreement made and approved under section 10706 of this title, but the exemption from the antitrust laws provided by that section applies only when the filing requirements of this paragraph are met.

(c) A different policy, rule of rate making, system of accounting, method of determining costs of transportation, value of property, or rate of return may not be applied to a water carrier owned or controlled by the United States Government than is applied to a water carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1383.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10721(a)(1).	49:65(a).	Sept. 18, 1940, ch. 722, § 321, 54 Stat. 954; Dec. 12, 1945, ch. 573, § 1, 59 Stat. 606.
	49:65a.	Dec. 12, 1945, ch. 573, § 3, 59 Stat. 607.
10721(a)(2).	49:65 (less (a)).	
10721(b).....	49:1(7) (1st sentence 32 words before 8th semicolon-9th semicolon).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(7) (1st sentence 32 words before 8th semicolon-9th semicolon); added June 29, 1906, ch. 3591, § 1, 34 Stat. 584; restated April 13, 1908, ch. 143, § 1, 35 Stat. 60; June 18, 1910, ch. 309, § 7, 36 Stat. 546; Feb. 28, 1920, ch. 91, § 401, 41 Stat. 475; June 19, 1934, ch. 652, § 602(b), 48 Stat. 1102; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 3, 54 Stat. 900; June 27, 1952, ch. 477, § 402(g), 66 Stat. 277.
	49:22(1) (1st sentence 1st-26th and 62d-76th words), (2) (less 1st sentence proviso).	Feb. 4, 1887, ch. 104, § 22(1) (1st sentence 1st-26th and 62d-76th words), (2) (less 1st sentence proviso), 24 Stat. 387; restated Mar. 2, 1889, ch. 382, § 9, 25 Stat. 862; Aug. 18, 1922, ch. 280, § 1, 42 Stat. 827; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 3, 54 Stat. 900; Aug. 31, 1957, Pub. L. 85-246, § 1, 71 Stat. 564; Oct. 19, 1976, Pub. L. 94-555, § 220(n), 90 Stat. 2630.
	49:317(b) (proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 217(b) (proviso); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 560; Sept. 18, 1940, ch. 722, § 22(e), 54 Stat. 925.

HISTORICAL AND REVISION NOTES—Continued

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49:906(c) (proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 306(c) (proviso); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 936.
	49:1005(c) (proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 405(c) (proviso); added May 16, 1942, ch. 318, § 1, 56 Stat. 287.
10721(c).....	49:903(i).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 303(i); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 933; May 16, 1946, Reorg. Plan No. 3 of 1946, §§ 101-104, 60 Stat. 1097.

In subsection (a)(1), the words "Except as provided in this section" are substituted for "Notwithstanding any other provision of law, but subject to the provisions of sections 1(7) and 22 of the Interstate Commerce Act, as amended" since the relevant parts of those sections are incorporated in this revised section. The term "rates" is substituted for "rates, fares, and charges" throughout this section in view of the definition of "rate" in section 10102 of the revised title. The words "the rate determined by the Interstate Commerce Commission as reasonable therefore shall be paid" are omitted as unnecessary in view of the restatement. The words ": *Provided, however,* That" are omitted as surplus. The words "may enter into contracts for the transportation of" are omitted as unnecessary. The words "When prescribing" are substituted for "in the exercise of its power to prescribe" for clarity. The words "just and reasonable" are omitted as unnecessary in view of section 10701 of the revised title. The words "shall consider" are substituted for "shall give due consideration" for clarity. The words "under this subsection" are substituted for "as a result of the enactment of section 65 of this title" in view of the restatement. The words "to shippers" are omitted as surplus.

In subsection (a)(2), the words "Paragraph (1) of this subsection does not apply, and the law related to compensation for transportation for the United States Government in effect immediately before September 18, 1940, applies" are substituted for "the provisions of law with respect to compensation for such transportation shall continue to apply to such transportation as though subsection (a) of this section had not been enacted" for clarity. The words "in the form and manner prescribed by him" are omitted as executed. The words "did not file a release . . . before September 18, 1941" are substituted for 49:65(b) (2d sentence) for clarity. The words "This paragraph does not require" are substituted for "Nothing in this section shall be construed as requiring" are being more precise. The word "heretofore" is omitted as surplus.

In subsection (b), the words "transportation" and "rate" are substituted for "carriage, storage, or handling of property" and "rate, charge or fare" in view of the definitions of "transportation" and "rate" in section 10102 of this revised title.

In subsection (b)(1), the words "A common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title" are substituted for the text of the provisos of 49:317(b), 906(c), and 1005(c) for clarity. The words "shall provide transportation for the United States Postal Service under chapters 50 and 52 of title 39" are added to conform 49:1(7) with title 39.

In subsection (b)(2), the words "Unless a carrier is advised by" are substituted for "The provisions of this paragraph . . . shall not apply to . . . as indicated" for clarity. The words "department, agency, or instrumentality of the United States Government for which the quotation or tender was made" are substituted for "any agency or department thereof, for whose account the quotations or tenders are offered" for clarity. The words "for the transportation, storage, or handling of property or the transportation of persons free or at reduced rates" in 49:22(2) are omitted as unnecessary in view of the restatement. The words "for transportation provided to the United States" are added for clarity. The words "including a retroactive rate made after the transportation has been provided" are substituted for "including . . . those for retroactive application whether negotiated or renegotiated after the services have been performed" for clarity. The words "shall be in writing or confirmed in writing" are omitted as unnecessary in view of the restatement. The words "the carrier shall" are substituted for "shall be submitted . . . by the carrier or carriers offering such tenders or quotations" for consistency. The words "in the manner specified by the Commission" are omitted as unnecessary in view of the general power of the Commission to prescribe regulations to carry out this subtitle in section 10321. The last sentence is substituted for "and only upon the submittal of such a quotation or tender made pursuant to an agreement approved by the Commission under section 5b or section 5c shall the provisions of paragraph (9) of such section 5b or paragraph (8) of such section 5c apply" for clarity in view of section 10706 of the revised title. The words "(a) was made prior to August 31, 1957, or (b) is on or after August 31, 1957, made" are omitted as executed. The 3d sentence of 49:22(2) is omitted as unnecessary in view of section 10303(b) of the revised title.

In subsection (c), the words "A different policy . . . may not be applied to" are substituted for "In the application of the provisions of this chapter . . . no different policy . . . shall be applied" as being more precise.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11126, 11905 of this title; title 31 section 244; title 45 section 546.

§ 10722. Special passenger rates

(a) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title may establish mileage, excursion, and commutation passenger rates including joint interchangeable 5,000 mile passenger rates with the privilege of carrying an amount of baggage without charge for at least 1,000 miles. A carrier that establishes a rate under this subsection may issue tickets reflecting that rate. A carrier that establishes a joint interchangeable 5,000 mile passenger rate shall also establish rules related to that rate specifying the amount of baggage that may be carried without charge under it.

(b) A common carrier providing transportation subject to the jurisdiction of the Commission under one of those subchapters may establish reduced rates for individuals when the cost of that transportation is an expense of an individual who—

(1) is a member of the armed forces of the United States or another country when that individual is traveling in uniform on official leave, furlough, or pass; or

(2) has been released from the armed forces of the United States not more than 30 days before beginning that transportation and is traveling home or to a prospective place of abode.

(c) A common carrier providing transportation subject to the jurisdiction of the Commission under one of those subchapters may provide transportation without charge for an individual who is—

(1) a necessary caretaker of livestock, poultry, milk, or fruit;

(2) an executive officer, general chairman, or counsel of an employee organization authorized to represent employees of that carrier under chapter 8 of title 45;

(3) an employee in charge of the mails when working or traveling to or from work;

(4) a newsboy on a train;

(5) a baggage agent; or

(6) a witness attending a legal investigation in which that carrier has an interest.

(d)(1) In this subsection—

(A) "employee of a carrier" includes an individual who—

(i) is furloughed, pensioned, or not on active duty because of advanced age or infirmity that occurred while the individual was employed by that carrier;

(ii) is being transported for purposes of reemployment by that carrier; or

(iii) was killed while employed by a carrier.

(B) "family" refers to the family of an individual named in clause (A) of this paragraph and includes the widow or minor child of an employee who died while employed by a carrier.

(2) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title may provide transportation without charge for officers and employees (and their families) of that carrier, another carrier (by exchange of passes or tickets), or a telegraph, telephone, or cable company. A freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of that chapter may provide services related to movement of property for those individuals without charge. However, transportation of, or service provided for, household goods must be due to a change in the place of employment of an officer or employee while employed by that carrier.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1384.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10722(a).....	49:22(1) (1st sentence (77th-86th words and 2d proviso), 2d, 3d, and 4th sentences).	Feb. 4, 1887, ch. 104, § 22(1) (1st sentence (77th-86th words, words between 2d and 5th semicolons, and 2d proviso), 2d, 3d, and 4th sentences), 24 Stat. 387; Mar. 2, 1889, ch. 382, § 9, 25 Stat. 862; Feb. 8, 1895, ch. 61, § 1, 28 Stat. 643; Aug. 18, 1922, ch. 280, § 1, 42 Stat. 487; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 27, 1944, ch. 423, § 1, 58 Stat. 751.
	49:317(b) (proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 217(b) (proviso); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 560; Sept. 18, 1940, ch. 722, § 22(e), 54 Stat. 925.
	49:906(c) (proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 306(c) (proviso); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 936.
10722(b).....	49:22(1) (1st sentence words between 2d and 4th semicolons). 49:317(b) (proviso). 49:906(c) (proviso).	
10722(c), (d).	49:1(7) (1st sentence words before 2d semicolon, words between 5th semicolon and 21st word after 7th semicolon, 1st-18th words after 9th semicolon, 1st proviso (words before semicolon), 2d, and 3d provisos).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(7) (1st sentence words before 2d semicolon, words between 5th semicolon and 21st word after 7th semicolon, 1st-18th words after 9th semicolon, 1st proviso (words before semicolon), 2d, and 3d provisos); added June 29, 1906, ch. 3591, § 1, 34 Stat. 584; Apr. 13, 1908, ch. 143, § 1, 35 Stat. 60; restated June 18, 1910, ch. 309, § 7, 36 Stat. 546; Feb. 28, 1920, ch. 91, § 401, 41 Stat. 475; June 19, 1934, ch. 652, § 602(b), 48 Stat. 1102; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 3, 54 Stat. 900; June 24, 1948, ch. 622, § 1, 62 Stat. 602.
	49:22(1) (1st sentence words between 4th and 5th semicolons). 49:317(b) (proviso). 49:906(c) (proviso).	
	49:1005(c) (proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 405(c) (proviso); added May 16, 1942, ch. 318, § 1, 56 Stat. 287.

In subsection (a), the text of the provisos in 49:317(b) and 906(c) is omitted in view of the restate-

ment. The words "may establish" are inserted for clarity. In the first sentence, the word "rates" is substituted for "tickets" for clarity. The words "without charge" are substituted for "free" for clarity. The words "at least" are substituted for "or more" for clarity. The 2d, 3d, and 4th sentences of 49:22(1) are omitted as unnecessary in view of subchapter IV of chapter 107 and chapter 119 of the revised title.

In subsection (b), the provisos in 49:317(b) and 906(c) are omitted in view of the restatement of 49:22. The word "may" is substituted for "nothing . . . shall be construed to prohibit" for clarity. The word "establish" is substituted for "establishing by publication and filing in the manner prescribed" for clarity and consistency in view of subchapter IV of chapter 107 of the revised title. The words "is an expense of" are substituted for "their own" for clarity. The word "individual" is inserted for clarity. The word "member" is substituted for "personnel" as being more precise. The words "armed forces" are substituted for "armed services" to conform to title 10. The words "another country" are substituted for "foreign armed services" for clarity. The words "of those services" are omitted as surplus. The word "released" is substituted for "discharged, retired or released" to eliminate redundancy. The words "not more than" are substituted for "within" for consistency. The words "beginning that" are substituted for "commencement of such" for clarity.

In subsection (c), the words "employees on sleeping cars, express cars, and to linemen on telegraph and telephone companies" are omitted to eliminate redundancy in view of subsection (d) of the revised section. The word "working" is substituted for "duty" for clarity.

In subsection (d)(1), the words "In this subsection" are substituted for "as used in this paragraph" to conform to the revised title. The word "individual" is substituted for "persons" as being more precise. The words "was employed by that carrier" are substituted for "in the service of any such common carrier" for clarity. The words "the remains of a" are omitted as unnecessary. The word "reemployment" is substituted for "ex-employees traveling for the purpose of entering the service" for clarity. The words "refers to the family of an individual named in clause (A) of this paragraph" are substituted for "shall include families of those persons named in this proviso, also the families of persons killed" for clarity. The words "during minority" are omitted as surplus. The words "while employed by" are substituted for "while in the service of" for clarity.

In subsection (d)(2), the words "A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title" are inserted to conform the provisos of 49:317(b) and 49:306(c) to the revised title. The words "their families" are substituted for "the families of any of the foregoing" for clarity. The word "transportation" is substituted for "carriage, storage, or handling" for consistency. The words "time inspectors, surgeons, physicians, and attorneys at law" are omitted as included in "officers and employees". The words "A freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of that chapter" are inserted to conform the proviso of 49:1005(c) to the revised title. The words "other personal effects" from 49:22(1) are omitted as surplus. The words "due to a change in the place of employment" are substituted for "necessarily be moved from one place to another as a result of a change in the place of employment" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11126, 11905 of this title; title 31 section 244; title 45 section 546.

§ 10723. Charitable purposes

(a)(1) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title may provide transportation without charge for—

(A) an indigent or homeless individual (including an individual transported by a hospital, charitable organization, or municipal government and the necessary agents employed in that transportation);

(B) an individual who is confined to or about to enter or return home after discharge from a—

(i) Veterans' Administration facility;

(ii) State home for disabled volunteer soldiers; or

(iii) soldiers' and sailors' home, under an arrangement with the board of managers of that facility;

(C) a minister of religion; and

(D) an individual who is confined to a hospital or charitable facility.

(2) A common carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title may provide transportation for property without charge or at a reduced rate for—

(A) a charitable purpose, including transportation referred to in paragraph (1) of this subsection; or

(B) use in a public exhibition.

(b)(1) A common carrier subject to the jurisdiction of the Commission under subchapter I, II, or III of that chapter may provide transportation without charge to an individual who is—

(A) engaged only in charitable work;

(B) injured in an accident (together with the physicians and nurses attending that individual); or

(C) a traveling secretary of a railroad Young Men's Christian Association.

(2) That carrier may also establish a rate and related rule equal to the rate charged for the transportation of one individual when that rate is for the transportation of—

(A) a totally blind individual and an accompanying guide or a dog trained to guide the individual; or

(B) a disabled individual and accompanying attendant when required because of the disability.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1385.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10723(a).....	49:1(7) (1st sentence 1st-4th and 13th-20th words after 2d semicolon and words between 3d and 5th semicolons).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(7) (1st sentence words between 2d and 5th semicolons and last 11 words before 1st proviso); added June 29, 1906, ch. 3591, § 1, 34 Stat. 584; Apr. 13, 1908, ch. 143, § 1, 35 Stat. 60; restated June 18, 1910, ch. 309, § 7, 36 Stat. 546; Feb. 28, 1920, ch. 91, § 401, 41 Stat. 475; June 19, 1934, ch. 652, § 602(b), 48 Stat. 1102; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
	49:22(1) (1st sentence 27th-61st words and words between 1st and 2d semicolons).	Feb. 4, 1887, ch. 104, § 22(1) (1st sentence 27th-61st words, words between 1st and 2d semicolons, and words between 6th semicolon and before 1st proviso), 24 Stat. 387; restated Mar. 2, 1889, ch. 382, § 9, 25 Stat. 862; Aug. 18, 1922, ch. 280, § 1, 42 Stat. 827; Feb. 26, 1927, ch. 217, § 1, 44 Stat. 1247; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; July 5, 1937, ch. 432, § 1, 50 Stat. 475; Sept. 18, 1940, ch. 722, § 3(d), (e), 54 Stat. 901; July 27, 1956, ch. 759, § 1, 70 Stat. 702; Aug. 31, 1957, Pub. L. 85-246, § 1(a), 71 Stat. 564; Sept. 2, 1958, Pub. L. 85-857, § 13(a), 72 Stat. 1264.
	49:317(b) (proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 217(b) (proviso); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 561; Sept. 18, 1940, ch. 722, § 22(e), 54 Stat. 925.
	49:906(c) (proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 306(c) (proviso); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 936.
	49:1005(c) (proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 405(c) (proviso); added May 16, 1942, ch. 318, § 1, 56 Stat. 287.
10723(b)(1).	49:1(7) (1st sentence 5th-12th and 21st-29th words after 2d semicolon and last 11 words before 1st proviso). 49:317(b) (proviso). 49:906(c) (proviso).	
10723(b)(2).	49:22(1) (1st sentence words between 6th semicolon and 1st proviso). 49:317(b) (proviso). 49:906(c) (proviso). 49:1005(c) (proviso).	

Subsection (a) is made applicable to motor and water common carriers in view of 49:317(b) (proviso) and 906(c) (proviso). The words "may provide transportation without charge" are inserted for consistency. The words "indigent or homeless individual" are substituted for "indigent, destitute, and homeless persons" to eliminate redundancy. The words "charitable organization" are substituted for "charitable and eleemosynary institutions" to eliminate redundancy. The words "Veterans' Administration facility" are substituted for "National Homes" since the National Home for Disabled Volunteer Soldiers was dissolved by the Act of July 3, 1930, ch. 863, §§ 1, 3, 5, 46 Stat. 1016, which provided for the consolidation of that Home and its functions in the Veterans' Administration. The consolidation was carried out under Ex. Ord. No. 5398, July 21, 1930. The words "soldiers' and sailors' home" are substituted for "Soldiers' and Sailors' Homes" and "Soldiers' and Sailors' Orphan Homes" as being more inclusive. The words "confined to" are substituted for "inmates of" as being more appropriate. Paragraph (2) is added in view of 49:317(b) (proviso), 906(c) (proviso), and 1005(c) (proviso). The words "referred to in paragraph (1) of this subsection" are substituted for 49:22(1) (first sentence 28th-61st words and words between 1st and 2d semicolons) for consistency. Paragraph (2) is made applicable to subsection (a)(1)(D) in view of the words "or for charitable purposes" in 49:22(1). The words "use in a public exhibition" are substituted for "to or from fairs and expositions for exhibition thereat" to eliminate redundancy.

In subsection (b), the word "eleemosynary" is omitted to eliminate redundancy. The word "accident" is substituted for "wrecks" as being more appropriate.

In subsection (b)(2), the words "an accompanying guide or a dog trained to guide the individual" are substituted for "accompanied by a guide or seeing-eye dog or other dog specially trained for that purpose" to eliminate redundancy. The words "attendant when required because of the disability" are substituted for "by an attendant if such person is disabled to the extent of requiring such attendant" for clarity. The words "related rule" are substituted for "reasonable regulations" for consistency. The words "may establish" are substituted for "as may have been established by the carrier" for clarity. The text of the provisos of 49:317(b), 906(c), and 1005(c) are omitted as unnecessary in view of the restatement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11126, 11905 of this title; title 31 section 244; title 45 section 546.

§ 10724. Emergency rates

(a) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title may transport passengers without charge to provide relief during general emergencies.

(b)(1) The Commission may authorize a common carrier providing transportation or service subject to its jurisdiction under chapter 105 of this title to give reduced rates for service and transportation of property to or from an area in the United States to provide relief during emergencies. When the Commission takes action under this subsection, it must—

(A) define the area of the United States in which the reduced rates will apply;

(B) specify the period during which the reduced rates are to be in effect; and

(C) define the class of persons entitled to the reduced rates.

(2) The Commission may specify those persons entitled to reduced rates by reference to those persons designated as being in need of relief by the United States Government or by a

State government authorized to assist in providing relief during the emergency. The Commission may act under this subsection without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1386.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10724(a).....	49:1(7) (1st sentence 1st proviso, words between semicolon and colon).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(7) (1st sentence 1st proviso, words between semicolon and colon); added June 29, 1906, ch. 3591, § 1, 34 Stat. 584; Apr. 13, 1908, ch. 143, § 1, 35 Stat. 60; restated June 18, 1910, ch. 309, § 7, 36 Stat. 546; Feb. 28, 1920, ch. 91, § 401, 41 Stat. 475; June 19, 1934, ch. 652, § 602(b), 48 Stat. 1102; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
	49:317(b) (proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 217(b) (proviso); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 560; Sept. 18, 1940, ch. 722, § 22(e), 54 Stat. 925.
	49:906(c) (proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 306(c) (proviso); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 936.
10724(b).....	49:22(1) (last 2 sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 22(1) (last 2 sentences); added Mar. 4, 1927, ch. 510, § 1, 44 Stat. 1446; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Aug. 25, 1937, ch. 776, § 1, 50 Stat. 809.
	49:317(b) (proviso).	
	49:906(c) (proviso).	
	49:1005(c) (proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 405(c) (proviso); added May 16, 1942, ch. 318, § 1, 56 Stat. 287.

In subsection (a), the words "subchapter I, II, or III of chapter 105 of this title" are inserted because 49:317(b) (proviso) and 906(c) (proviso) make this subsection apply to motor and water common carriers. The words "without charge" are substituted for "free" for clarity and consistency. The words "to provide" are substituted for "with the object of providing" as being more precise. The word "emergencies" is substituted for "general epidemic, pestilence, or other calamitous visitation" for clarity and to eliminate redundancy.

In subsection (b), the words "under chapter 105 of this title" are inserted because 49:317(b) (proviso), and 906(c) (proviso), and 1005(c) (proviso) make this subsection apply to motor and water common carriers and to freight forwarders. The words "The Commission may authorize" are substituted for "Nothing in this chapter shall prevent . . . if such . . . have first been authorized . . . by the Commission" for clarity. The words "by order" are omitted as surplus. The word "emergencies" is substituted for "in case of earthquake, flood, fire, famine, drought, epidemic, pestilence, or other calamitous visitation or disaster" for clarity and to eliminate redundancy. The word "area" is substituted for "section" as being more appropriate. The word "Government" is substituted for "agents" for clarity since the reference is to official action. The last sentence is substituted for "(with or without a hearing)" for consistency. The last sentence of 49:22(1) is omitted as unnecessary in view of the restatement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11126, 11905 of this title; title 31 section 244; title 45 section 546.

§ 10725. Special freight forwarder rates

(a) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title may establish—

(1) assembling rates and related classifications and rules for transportation of less-than-carload or less-than-truckload shipments to a place for further movement as part of a carload or truckload shipment; and

(2) distribution rates and related classifications and rules for transportation of less-than-carload or less-than-truckload shipments moving from a place to which those shipments have moved as a part of a carload or truckload shipment.

(b) A rate and related classification and rule established under subsection (a) of this section applies to freight forwarders and other persons using common carrier transportation under like conditions and may differ from other rates and related classifications and rules that contemporaneously apply to the same common carrier transportation when the difference is justified by a difference in the respective conditions under which that transportation is used. A rate referred to in subsection (a)(1) or (2) of this section may not be established to cover the line-haul transportation between the principal concentration place and the principal break-bulk place.

(c) When establishing a rate, classification, rule, or practice, a motor common carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may consider the type of property tendered to it by a freight forwarder for transportation when the property is in parcels that do not exceed 70 pounds in weight or 100 inches in length and girth combined. The carrier may establish the lowest rate for the transportation that allows it to receive adequate compensation for transporting the property.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1387.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10725(a), (b).	49:1008.	Feb. 4, 1887, ch. 104, 24 Stat. 379, §§ 407, 408; added May 16, 1942, ch. 318, § 1, 56 Stat. 289, 290.
10725(c).....	49:1007.	

In subsections (a) and (b), the word "rates" is substituted for "rates or charges" in view of the definition of "rate" in section 10102 of the revised title. The word "rules" is substituted for "rules, and regulations" for consistency when referring to carriers.

In subsection (a), the words "may establish" are substituted for "Nothing in this Act shall be construed to

make it unlawful for . . . to establish and maintain" as being more precise. The words "For the purposes of this section (1) the term . . . and (2) the term" are omitted as surplus in view of the restatement. The word "beyond" is omitted as surplus.

In subsection (b), the words "A rate . . . established under subsection (a) of this section" are inserted for clarity. The word "persons" is inserted for clarity. The words "using common carrier transportation" are substituted for "who employ or utilize the instrumentalities or services of such common carriers" for clarity and consistency in view of the definition of "transportation" in section 10102 of the revised title.

In subsection (c), the words "When establishing" are substituted for "In the establishment of" for clarity. The word "rate" is substituted for "rates or charges" in view of the definition of "rate" in section 10102 of the revised title. The word "rule" is substituted for "rules, or regulations" for consistency when referring to carriers. The words "when the property is in parcels" are substituted for "engaged in service with respect to parcels" for clarity. The last sentence is substituted for the words following the 2d comma in 49:1007 for clarity.

§ 10726. Long and short haul transportation

(a)(1) A carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I or III of chapter 105 of this title (except an express carrier) may not charge or receive more compensation for the transportation of property of the same kind or of passengers—

(A) for a shorter distance than for a longer distance over the same line or route in the same direction (the shorter distance being included in the longer distance); or

(B) under a through rate than under the total of the intermediate rates it may charge or receive under this chapter.

This paragraph does not authorize a carrier to charge or receive equal compensation for transportation over a shorter distance than a longer distance.

(2) Notwithstanding paragraph (1) of this subsection, a carrier operating over a circuitous line or route to or from a place in competition with another carrier of the same type that operates over a more direct line or route may establish a rate (otherwise complying with this chapter) for that transportation to meet the rate of the carrier operating over the more direct line or route. A rate established for transportation over a circuitous route under this subsection is not evidence of the compensatory character of rates in other proceedings.

(b) In special cases, the Commission may authorize a carrier to charge less for transportation over a longer distance than it charges for transportation over a shorter distance. The Commission may prescribe the extent to which a carrier authorized to charge less under this subsection may be granted relief from subsection (a) of this section. However, the Commission may not authorize a rate—

(1) to or from the more distant place unless it is reasonably compensatory; or

(2) because of potential water competition not actually in existence.

(c) A rail carrier that reduces a rate for the transportation of property in competition with a water route to or from competitive places may increase the rate only if, after a proceeding, the Commission finds that the increase is proposed because of a change in conditions other than the elimination of water competition.

(d) The Commission shall begin a proceeding under subsection (b) of this section on application of a carrier. A carrier may file a proposed rate with its application, and if the application is approved, the Commission shall allow the rate to become effective one day after the approval becomes effective.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1387.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10726(a).....	49:4(1) (words before 1st proviso, 4th and 2d provisos).	Feb. 4, 1887, ch. 104, § 4, 24 Stat. 380; June 18, 1910, ch. 309, § 8, 36 Stat. 547; restated Feb. 28, 1920, ch. 91, § 406, 41 Stat. 480; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 6(a), 54 Stat. 904; July 11, 1957, Pub. L. 85–99, § 1, 71 Stat. 292; Sept. 27, 1962, Pub. L. 87–707, § 1, 76 Stat. 635.
10726(b).....	49:4(1) (1st proviso).	
10726(c).....	49:4 (less (1)).	
10726(d).....	49:4(1) (less words before 1st proviso, and less 1st, 2d and 4th provisos).	

In subsection (a), the words "A carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I or III of chapter 105 of this title" are substituted for "any common carrier subject to this chapter or chapter 12 of this title" to conform to the revised title. The words "except an express carrier" are substituted for 49:4(1) (4th proviso) for clarity. The words "more compensation" are substituted for "any greater compensation in the aggregate" for clarity and to eliminate redundancy. The words "same kind" are substituted for "like kind" for clarity. The words "the total of the intermediate rates it may charge or receive under this chapter" are substituted for "than the aggregate of the intermediate rates subject to the provisions of this chapter or chapter 12 of this title" for clarity. The words "This paragraph does not authorize a carrier to charge or receive equal compensation" are substituted for "This shall not be construed as authorizing any common carrier within the terms of this chapter or chapter 12 of this title to charge or receive as great compensation" for clarity.

In subsection (b), the words "Notwithstanding paragraph (1) of this subsection" are inserted for clarity. The words "otherwise complying with this chapter" are substituted for "subject only to the standards of lawfulness set forth in other provisions of this chapter or chapter 12 of this title" for clarity and to conform to this revised title. The words "another carrier of the same type" are substituted for "such carrier" for clarity. The words "and after investigation" are omitted as surplus. The words "transportation over a longer distance than . . . for transportation over a shorter distance" are substituted for "for longer than for shorter distances for the transportation of passengers or property" for clarity. The words "from time to time" are omitted as surplus. The words "a carrier authorized to charge less under this subsection" are substituted for "such designated carriers" for clarity. The words "may be granted relief from subsection (a) of this section" are substituted for "may be relieved from the operation of the foregoing provisions of this section" for clarity and to conform to the revised title. The words

"but in exercising the authority conferred upon it in this proviso" are omitted as surplus. The words "may not authorize a rate" are substituted for "shall not permit the establishment of any charge" for clarity. The word "place" is substituted for "point" for consistency. The words "unless it is reasonably compensatory" are substituted for "that is not reasonably compensatory for the service performed" for clarity. The words "because of" are substituted for "on account of" for clarity. The word "merely" is omitted as surplus.

In subsection (c), the words "A rail carrier that reduces a rate for the transportation of property in competition with a water route" are substituted for "wherever a carrier by railroad shall in competition with a water route or routes reduce the rates on the carriage of any species of freight to or from competitive points" for clarity. The words "may increase the rate only if" are substituted for "it shall not be permitted to increase such rate unless" for clarity. The words "after a proceeding" are substituted for "after hearing" for consistency. The words "because of a change in conditions" are substituted for "rests upon changed conditions" for clarity.

In subsection (d), the words "A carrier may file a proposed rate" are substituted for "That tariffs proposing rates . . . may be filed" for clarity. The words "if the application is approved" are substituted for "in the event such application is approved" for clarity. The words "shall allow the rate to become effective one day after the approval becomes effective" are substituted for "shall permit such tariffs to become effective upon one day's notice" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10711, 10729 of this title.

§ 10727. Demand-sensitive rates

(a) The Interstate Commerce Commission shall maintain standards and procedures to permit seasonal, regional, or peak-period demand rates for transportation by rail carrier subject to its jurisdiction under subchapter I of chapter 105 of this title, that—

(1) provide sufficient incentives to shippers, through rescheduling and advance planning, to reduce peak-period shipments;

(2) generate additional revenue for rail carriers;

(3) make better use of the national supply of freight cars;

(4) improve—

(A) the transportation of property by rail carriers;

(B) the level of employment by rail carriers; and

(C) the financial stability of markets served by rail carriers.

(b) The Commission shall submit to Congress an annual report on the implementation of rates under this section and shall include recommendations for additional legislation needed to make it easier to establish those rates.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1388.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10727.....	49:15(17).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 15(17); added Feb. 5, 1976, Pub. L. 94–210, § 202(d), 90 Stat. 36.

In subsection (a), the words "Within 1 year after the date of enactment of this paragraph" are omitted as executed. The words "The Interstate Commerce Commission shall maintain standards and procedures to permit . . . rates" are substituted for "the Commission shall establish, by rule, standards and expeditious procedures for the establishment of railroad rates" for clarity. The words "Such standards and procedures shall be" are omitted as surplus. The words "rail carriers" are substituted for "railroads" for consistency. The words "better use" are substituted for "improve the utilization of" for clarity. The words "transportation of property by rail carriers" are substituted for "the movement of goods by rail" for clarity.

In subsection (b), the words "Following the establishment of such standards and procedures" are omitted as executed. The words "prepare and" are omitted as surplus. The words "and shall include recommendations for additional legislation needed to make it easier to establish those rates" are substituted for "including recommendations with respect to the need, if any, for additional legislation to facilitate the establishment of such demand-sensitive rates" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10711 of this title.

§ 10728. Separate rates for distinct rail services

(a) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may, on its own initiative or at the request of a shipper or receiver of property, establish separate rates for distinct rail services to—

(1) encourage competition;

(2) promote increased reinvestment by rail carriers; and

(3) encourage and make easier increased non-railroad investment in the production of rail services.

(b) The Commission shall maintain expeditious procedures to permit separate rates for distinct rail services to—

(1) encourage those services to be priced in accordance with the cash-outlay incurred by the carrier and the demand for them; and

(2) enable shippers and receivers to evaluate transportation and related rates and alternatives.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1388.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10728.....	49:15(18).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 15(18); added Feb. 5, 1976, Pub. L. 94–210, § 202(d), 90 Stat. 36.

In subsection (a), the words "rail carrier" are substituted for "a carrier by railroad" for consistency. The word "property" is substituted for "freight" for consistency. The word "establish" is substituted for "file" for clarity. The words "In order to" are omitted as surplus. The words "make . . . easier" are substituted for "facilitate" for clarity.

In subsection (b), the words "Within 1 year after the date of enactment of this paragraph" are omitted as executed. The words "Commission shall maintain expeditious procedures" are substituted for "Commission shall establish, by rule, expeditious procedures" for

clarity. The word "all" is omitted as surplus. The word "rates" is substituted for "charges" in view of the definition of "rate" in section 10102 of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10711 of this title.

§ 10729. Rail carriers; incentive for capital investment

(a) A proposed rate, classification, rule, or practice for transportation by a rail carrier subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title requiring a total capital investment of at least $1,000,000 to implement shall be established and become effective under this section. This section applies whether the investment is made individually or collectively by the carrier or by a shipper, receiver, or agent for any of them, or by a third party.

(b) A rail carrier may file a notice of intent to establish a rate, classification, rule, or practice under subsection (a) of this section with the Commission. The notice must include a sworn affidavit detailing the anticipated capital investment. Unless the Commission after holding a proceeding under subsection (c) of this section, decides by the 180th day after the notice is filed that the proposed rate, classification, rule, or practice would violate this subtitle, the carrier may establish that rate, classification, rule, or practice at any time during the next 180 days, and it may become effective 30 days after it is established. Once a rate, classification, rule, or practice becomes effective under this section, the Commission may not, for 5 years, suspend or set it aside as violating section 10701, 10726, 10741–10744, or 11103 of this title. However, the Commission may order the rate, classification, rule, or practice to be revised to a level equal to the variable costs of providing the transportation when the Commission finds the level then in effect reduces the going concern value of the carrier.

(c) On request of an interested person, the Commission shall hold a proceeding to investigate and determine whether the rate, classification, rule, or practice proposed to be established under this section complies with this subtitle. The Commission must give reasonable notice to interested parties before beginning a proceeding under this subsection but may act without allowing an interested party to file an answer or other formal pleading.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1389.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10729.....	49:15(19).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 15(19); added Feb. 5, 1976, Pub. L. 94–210, § 206(a), 90 Stat. 41; Oct. 19, 1976, Pub. L. 94–555, § 220(m), 90 Stat. 2630.

In subsection (a), the words "provision of" are omitted as surplus. The word "rate" is substituted for "rate, fare, charge," in view of the definition of "rate" in section 10102 of this title. The word "schedule" is omitted as unnecessary in view of the restatement. The words "of at least $1,000,000" are substituted for "$1,000,000 or more" for consistency. The words "shall be established and become effective under this section" are inserted for clarity. The words "This section applies whether the investment is made" are inserted for clarity.

In subsection (b), the words "to establish" are substituted for "to file" as being more precise. The word "notice" is substituted for "filing" for clarity. The words "must include" are substituted for "shall be accompanied" for clarity. The word "detailing" is substituted for "setting forth in detail" to eliminate redundancy. The words "become effective 30 days after it is established" are substituted for "to become effective after 30 days' notice" for clarity. The words "Once a rate, classification, rule, or practice becomes effective under this section" are substituted for "Such a schedule" for clarity. The word "period" is omitted as surplus. The words "may at any time" are omitted as surplus. The words "rate, classification, rule, or practice" are substituted for "such schedule" for consistency. The words "equal to" are substituted for "equaling" for consistency. The words "then in effect" are substituted for "stated therein" for clarity.

In subsection (c), the word "proceeding" is substituted for "hearing" in view of subchapter II of chapter 5 of title 5. The words "may act without allowing an interested party to file an answer or other formal pleading" are substituted for "may be conducted without answer or other formal pleading" for clarity.

§ 10730. Rates and liability based on value

The Interstate Commerce Commission may require or authorize a carrier providing transportation or service subject to its jurisdiction under subchapter I, II, or IV of chapter 105 of this title, to establish rates for transportation of property under which the liability of the carrier for that property is limited to a value established by written declaration of the shipper, or by a written agreement, when that value would be reasonable under the circumstances surrounding the transportation. A rate may be made applicable under this section to livestock only if the livestock is valuable chiefly for breeding, racing, show purposes, or other special uses. A tariff filed with the Commission under subchapter IV of this chapter shall refer specifically to the action of the Commission under this section.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1389.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10730.....	49:20(11) (1st sentence (2d proviso related to released value), 2d sentence (less 1st–5th provisos)).	Feb. 4, 1887, ch. 104, § 20(11) (1st sentence (2d proviso related to released value), 2d sentence (less 1st–5th provisos)) 24 Stat. 386; Mar. 4, 1915, ch. 176, § 1, 38 Stat. 1196; Aug. 9, 1916, ch. 301, § 1, 39 Stat. 441; Feb. 28, 1920, ch. 91, § 436, 41 Stat. 494; Mar. 4, 1927, ch. 510, § 3, 44 Stat. 1448; restated Apr. 23, 1930, ch. 208, § 1, 46 Stat. 251; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.

HISTORICAL AND REVISION NOTES—Continued

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
	49:319.	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 219; added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 563; May 16, 1942, ch. 318, § 3, 56 Stat. 300; restated Aug. 7, 1942, ch. 552, § 1, 56 Stat. 746.
	49:1013 (1st sentence related to released value).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 413 (1st sentence related to released value); added May 16, 1942, ch. 318, § 1, 56 Stat. 295.

The text of 49:319 and 1013 (1st sentence) is omitted as unnecessary in view of the restatement. The words "in which case such declaration or agreement shall have no other effect than" are omitted as surplus. The words "shall not, so far as relates to values, be held a violation of section 10 of this title" are omitted as unnecessary in view of the restatement. The words "including cattle, swine, sheep, goats, horses, and mules" are omitted as unnecessary in view of the restatement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11707 of this title.

§ 10731. Investigation of discriminatory rail rates for transportation of recyclable or recycled materials

(a) In this section—

(1) "recyclable material" means material collected or recovered from waste for a commercial or industrial use whether the collection or recovery follows end usage as a product.

(2) "virgin material" means raw material, including previously unused metal or metal ore, woodpulp or pulpwood, textile fiber or material, or other resource that, through the application of technology, is or will become a source of raw material for commercial or industrial use.

(b) When appropriate, the Interstate Commerce Commission shall—

(1) investigate the rate structure for the transportation of recyclable or recycled materials and competing virgin material by rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title and the manner in which that rate structure has been affected by successive general rate increases approved by the Commission for those carriers;

(2) determine whether those rate increases affect any part of the rate structure in violation of section 10701 or 10741 of this title and order the rate found to be in violation of either of those sections removed from the rate structure; and

(3) report to the President and Congress, in each of the annual reports of the Commission for 1978 and 1979, and in other appropriate reports, all proceedings started or completed under this subsection.

(c) A determination under subsection (b)(2) of this section may be made only after a public hearing. During the hearing, the rail carriers have the burden of proving that rate increases that affect the rate structure applicable to the transportation of those competing materials comply with sections 10701 and 10741 of this title.

(d) In cooperation with the Commission, the Secretary of Transportation shall maintain a research, development, and demonstration program to develop and improve transport terminal operations, transport service characteristics, transport equipment, and collection and processing methods to facilitate the competitive and efficient transportation of recyclable or recycled materials by rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1389.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10731.....	45:793 (note).	Feb. 5, 1976, Pub. L. 94-210, § 204, 90 Stat. 40.

In subsection (b), the words "within 12 months after the date of enactment of this Act" are omitted as executed. The words "When appropriate" are substituted for "and thereafter as appropriate" for clarity. The words "conduct an" are omitted as surplus. The words "any part of" are substituted for "in whole or in part" as being more precise and for consistency. The words "order the rate . . . removed" are substituted for "issue . . . orders requiring the removal" for clarity. The words "1978 and 1979" are substituted "for each of the 3 years following the date of enactment of this Act" as being more precise. Reference to the first year after enactment (1977) is omitted as executed. The words "section 10701 or 10741 of this title" are substituted for "just, reasonable, and nondiscriminatory", "unjustly discriminatory or unreasonable", and "unreasonableness or unjust discrimination" in view of the restatement. See the revision note to section 10101 of the revised title.

In subsection (d), the words "Secretary of Transportation" are substituted for "Secretary" for clarity in view of section 102(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (90 Stat. 34).

Subsection (b) of 45:793 (note) is omitted as executed. The first sentence of subsection (d) of 45:793 (note) is omitted as unnecessary since 45:793 (note) is codified in the revised title. The 2d sentence of subsection (d) of 45:793 (note) is omitted as surplus in view of sections 4332 and 4333 of title 42.

SUBCHAPTER III—LIMITATIONS

§ 10741. Prohibitions against discrimination by common carriers

(a) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may not charge or receive from a person a different compensation (by using a special rate, rebate, drawback, or another means) for a service rendered, or to be rendered, in transportation the carrier may per-

form under this subtitle than it charges or receives from another person for performing a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances. A common carrier that charges or receives such a different compensation for that service unreasonably discriminates.

(b) A common carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title may not subject a person, place, port, or type of traffic to unreasonable discrimination. However, subject to subsection (c) of this section, this subsection does not apply to discrimination against the traffic of another carrier providing transportation by any mode.

(c) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of that chapter may not subject a freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of that chapter to unreasonable discrimination whether or not the freight forwarder is controlled by that carrier.

(d) Differences between the rates, classifications, rules, and practices of water and rail common carriers in effect for their respective types of transportation do not constitute a violation of this section or an unfair or destructive competitive practice under this subtitle.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1390.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10741(a).....	49:2.	Feb. 4, 1887, ch. 104, § 2, 24 Stat. 379; restated Feb. 28, 1920, ch. 91, § 404, 41 Stat. 479; June 19, 1934, ch. 652, § 602(b), 48 Stat. 1102; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
10741(b)-(d).	49:3(1).	Feb. 4, 1887, ch. 104, § 3(1), 24 Stat. 380; Feb. 28, 1920, ch. 91, § 405, 41 Stat. 479; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Aug. 12, 1935, ch. 509, § 1, 49 Stat. 607; restated Sept. 18, 1940, ch. 722, § 5(a), 54 Stat. 902.
	49:316(d) (less 1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 216(d) (less 1st sentence); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 558; restated Sept. 18, 1940, ch. 722, § 22(b), 54 Stat. 924.
	49:905(c).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 305(c); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 935.

HISTORICAL AND REVISION NOTES—Continued

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49:1004(b), (c).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 404(b), (c); added May 16, 1942, ch. 318, § 1, 56 Stat. 286.

In subsection (a), the words "A common carrier . . . may not" are substituted for "If any common carrier . . . shall . . . by . . . such common carrier shall be deemed guilty of . . . which is prohibited and declared to be unlawful" for clarity and in view of the restatement of the criminal penalties related to discrimination in sections 11903 and 11904 of the revised title. The words "directly or indirectly" are omitted as surplus. The words "charge or receive" are substituted for "charge, demand, collect, or receive" as being inclusive. The word "different" is substituted for "greater or less" for clarity. The words "passengers or property" are omitted as surplus. The words "for him or them" are omitted as unnecessary. The word "circumstances" is substituted for "circumstances and conditions" as being inclusive. The word "unreasonably" is substituted for "unjust" for consistency. See the revision note to section 10101 of the revised title.

In subsections (b) and (c), the words "may not" are substituted for "It shall be unlawful" for consistency. The words "A common carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title" are substituted for "any common carrier subject to the provisions of this chapter", "common carrier by motor vehicle engaged in interstate or foreign commerce", "common carrier by water", and "any freight forwarder, in service subject to this chapter" to conform to chapter 105 of the revised title. The words "subject . . . to unreasonable discrimination" are substituted for "to make, give, or cause any undue or unreasonable preference or advantage . . . to any undue or unreasonable prejudice or disadvantage" and, in 49:905(c), "any unjust discrimination" for clarity and to eliminate redundancy. See the revision note to section 10101 of the revised title.

In subsection (b), the word "person" is substituted for "particular person, company, firm, corporation, association" in view of the definition of "person" in section 10102 of the revised title. The word "place" is substituted for "locality, . . . gateway, transit point, region, district, territory" as being more inclusive. The word "port" is substituted for "port, port district" as being more inclusive. The words "type of" are substituted for "particular description of" since it is most precise. The word "However" is substituted for ": *Provided, however,* That" for clarity. The words "does not apply" are substituted for "shall not be construed" for clarity. The word "discrimination" is substituted for "discrimination, prejudice, or disadvantage" for consistency. See the revision note to section 10101 of the revised title.

In subsection (d), the word "rates" is substituted for "rates, fares, charges" in view of the definition of "rate" in section 10102 of the revised title. The words "do not constitute a violation of this section" are substituted for "shall not be deemed to constitute unjust discrimination, prejudice, or disadvantage" for consistency. See the revision note to section 10101 of the revised title. The words "any provision" are omitted as surplus. The word "subtitle" is substituted for "Act" to conform to the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10705, 10707, 10711, 10729, 10731, 11126 of this title.

§ 10742. Facilities for interchange of traffic

A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I or III of chapter 105 of this title shall provide reasonable, proper, and equal facilities that are within its power to provide for the interchange of traffic between, and for the receiving, forwarding, and delivering of passengers and property to and from, its respective line and a connecting line of another common carrier under either of those subchapters.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1391.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10742.....	49:3(4) (less 1st sentence 2d cl., 2d sentence related to facilities).	Feb. 4, 1887, ch. 104, § 3(4) (less 1st sentence 2d cl., 2d sentence related to facilities), 24 Stat. 380; Feb. 4, 1920, ch. 91, § 405, 41 Stat. 479; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 5(e), 54 Stat. 903.
	49:905(d) (less 1st sentence 2d cl., 2d sentence related to facilities).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 305(d) (less 1st sentence 2d cl., 2d sentence related to facilities); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 935.

The words "within its power to provide" are substituted for "according to their respective powers" for clarity. The words "between . . . a connecting line of another common carrier under either of those subchapters" are substituted for "between their respective lines and connecting lines" and for the last sentence of 49:3(4) and 905(d) for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10705, 10707, 10711, 10729, 11126 of this title.

§ 10743. Payment of rates

(a) Except as provided in subsection (b) of this section, a common carrier (except a pipeline or sleeping car carrier) providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under this subtitle shall give up possession at destination of property transported by it only when payment for the transportation or service is made.

(b)(1) Under regulations of the Commission governing the payment for transportation and service and preventing discrimination, those carriers may give up possession at destination of property transported by them before payment for the transportation or service. The regulations of the Commission may provide for weekly or monthly payment for transportation provided by motor common carriers and for periodic payment for transportation provided by water common carriers.

(2) Such a carrier (including a motor common carrier being used by a freight forwarder) may extend credit for transporting property for the United States Government, a State, a territory or possession of the United States, or a political subdivision of any of them.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1391.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10743.....	49:3(2) (1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 3(2) (1st sentence); added Feb. 28, 1920, ch. 91, § 405, 41 Stat. 479; Mar. 4, 1927, ch. 510, § 1, 44 Stat. 1447; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Aug. 2, 1949, ch. 379, § 2(a), 63 Stat. 485.
	49:323 (1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 223 (1st sentence); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 565.
	49:918 (1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 318 (1st sentence); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 949.
	49:1014.	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 414; added May 16, 1942, ch. 318, § 1, 56 Stat. 296.

In subsection (a), the words "carrier . . . shall . . . only when" are substituted for "No carrier . . . shall . . . until" for consistency. The word "tariff" is omitted as unnecessary in view of subchapter I of chapter 107 of the revised title.

In subsection (b), the word "rules" is omitted for consistency. The words "from time to time" are omitted as surplus. The words "payment for transportation" are substituted for "rates and charges" for clarity. See the revision note to section 10101 of the revised title. The words "or service" are inserted, when referring to a freight forwarder, for consistency. The words "carrier . . . may" are substituted for "the provisions of this paragraph shall not be construed to prohibit any carrier" for clarity. The words "or for the District of Columbia" are omitted as unnecessary in view of the definition of "State" in section 10102 of the revised title. The word "Government" is substituted for "department, bureau, or agency thereof" for consistency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10705, 10707, 10711, 10729, 11126 of this title.

§ 10744. Liability for payment of rates

(a)(1) Liability for payment of rates for transportation for a shipment of property by a shipper or consignor to a consignee other than the shipper or consignor, is determined under this subsection when the transportation is provided by a rail, motor, or water common carrier under this subtitle. When the shipper or consignor instructs the carrier transporting the property to deliver it to a consignee that is an agent only, not having beneficial title to the property, the consignee is liable for rates billed at the time of delivery for which the consignee is otherwise liable, but not for additional rates that may be found to be due after delivery if the consignee gives written notice to the delivering carrier before delivery of the property—

(A) of the agency and absence of beneficial title; and

(B) of the name and address of the beneficial owner of the property if it is reconsigned or diverted to a place other than the place specified in the original bill of lading.

(2) When the consignee is liable only for rates billed at the time of delivery under paragraph (1) of this subsection, the shipper or consignor, or, if the property is reconsigned or diverted, the beneficial owner, is liable for those additional rates regardless of the bill of lading or contract under which the property was transported. The beneficial owner is liable for all rates when the property is reconsigned or diverted by an agent but is refused or abandoned at its ultimate destination if the agent gave the carrier in the reconsignment or diversion order a notice of agency and the name and address of the beneficial owner. A consignee giving the carrier, and a reconsignor or diverter giving a rail carrier, erroneous information about the identity of the beneficial owner of the property is liable for the additional rates.

(b) Liability for payment of rates for transportation for a shipment of property by a shipper or consignor, named in the bill of lading as consignee, is determined under this subsection when the transportation is provided by a rail or express carrier under this subtitle. When the shipper or consignor gives written notice, before delivery of the property, to the line-haul carrier that is to make ultimate delivery—

(1) to deliver the property to another party identified by the shipper or consignor as the beneficial owner of the property; and

(2) that delivery is to be made to that party on payment of all applicable transportation rates;

that party is liable for the rates billed at the time of delivery and for additional rates that may be found to be due after delivery if that party does not pay the rates required to be paid under clause (2) of this subsection on delivery. However, if the party gives written notice to the delivering carrier before delivery that the party is not the beneficial owner of the property and gives the carrier the name and address of the beneficial owner, then the party is not liable for those additional rates. A shipper, consignor, or party to whom delivery is made that gives the delivering carrier erroneous information about the identity of the beneficial owner, is liable for the additional rates regardless of the bill of lading or contract under which the property was transported. This subsection does not apply to a prepaid shipment of property.

(c)(1) A rail carrier may bring an action to enforce liability under subsection (a) of this section. That carrier must bring the action during the period provided in section 11706(a) of this title or by the end of the 6th month after final judgment against it in an action against the consignee, or the beneficial owner named by the consignee or agent, under that section.

(2) A water common carrier may bring an action to enforce liability under subsection (a) of this section. That carrier must bring the action by the end of the 2d year after the claim accrues or by end of the 6th month after final judgment against it in an action against the consignee or beneficial owner named by the consignee by the end of that 2-year period.

(3) A rail or express carrier may bring an action to enforce liability under subsection (b) of this section. That carrier must bring the action during the period provided in section 11706(a) of this title or by the end of the 6th month after final judgment against it in an action against the shipper, consignor, or other party under that section.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1391.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10744(a).....	49:3(2) (less 1st, 4th, and 6th sentences and 8th sentence last cl.).	Feb. 4, 1887, ch. 104, § 3(2) (less 1st sentence), (3), 24 Stat. 380; Mar. 4, 1927, ch. 510, § 1, 44 Stat. 1447; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 5(c)-(e), 54 Stat. 902.
	49:323 (less 1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 223 (less 1st sentence); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 565.
	49:918 (less 1st, 4th, and 6th sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 318 (less 1st sentence); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 949.
10744(b).....	49:3(3) (less 3d sentence).	
10744(c)(1).	49:3(2) (4th and 6th sentences and 8th sentence last cl.).	
10744(c)(2).	49:918 (4th and 6th sentences).	
10744(c)(3).	49:3(3) (3d sentence).	

In subsection (a), the first sentence is added in view of the consolidation: The word "When" is substituted for "Where" since it is more precise. The words "the consignee is liable for rates billed at the time of delivery for which the consignee is otherwise liable" are substituted for "such consignee shall not be legally liable for transportation charges in respect of the transportation of such property (beyond those billed against him at the time of delivery for which he is otherwise liable)" for clarity. The word "rates" is substituted for "charges" for consistency in view of the definition of "rate" in section 10102 of the revised title. The word "legally" is omitted as surplus. The words "but not for additional rates" are inserted for clarity. The words "of the fact" are omitted as surplus. The word "if" is substituted for "in the case of" for clarity. The word "place" is substituted for "point" as being more appropriate. The first clause of the 3d sentence is substituted for "In such cases" for clarity. The words "irrespective of any provisions to the contrary" are omitted as surplus. The words "notwithstanding the foregoing provisions of this paragraph" are omitted as unnecessary in view of the restatement. The words "property was transported" are substituted for "shipment was made" as being more precise.

In subsection (b), the first sentence is added for consistency in view of subsection (a) of the revised section. The last sentence is substituted for "(other than a prepaid shipment)" for clarity. The words "before delivery" are substituted for "prior to the time of delivery" since they are more precise. The words "after delivery if that party does not pay" are substituted for "and delivery is made . . . to such party without such payment" since they are more precise. The words "(as shipper, consignor, consignee, or otherwise)" are omitted as surplus. The words "in any event" are omitted as unnecessary. The word "However" is substituted for "except that". The words "A shipper . . . that gives . . . erroneous information . . . is liable" are substitut-

ed for "If the shipper . . . has given . . . erroneous information . . . such shipper . . . shall himself be liable" for clarity. The words "name and address of the beneficial owner" are substituted for "as to who the beneficial owner is" for clarity. The words "notwithstanding the foregoing provisions of this paragraph" are omitted as unnecessary in view of the restatement. The text of the last sentence of 49:3(3) is omitted since it is incorporated throughout the subsection.

In subsection (c), the words "by the end of" are substituted for "before the expiration of" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10705, 10707, 10711, 10729, 11126 of this title.

§ 10745. Continuous carriage of freight

A carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may not enter a combination or arrangement to prevent the carriage of freight from being continuous from the place of shipment to the place of destination whether by change of time schedule, carriage in different cars, or by other means. The carriage of freight by those carriers is considered to be a continuous carriage from the place of shipment to the place of destination when a break of bulk, stoppage, or interruption is not made in good faith for a necessary purpose, and with the intent of avoiding or unnecessarily interrupting the continuous carriage or of evading this subtitle.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1392.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10745.....	49:7.	Feb. 4, 1887, ch. 104, § 7, 24 Stat. 382; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.

The words "may not enter" are substituted for "It shall be unlawful . . . to enter" for consistency. The word "contract" is omitted as included in "arrangement" to eliminate redundancy. The words "expressed or implied" are omitted as surplus. The word "freight" is substituted for "freights" for clarity. The words "The carriage of freight . . . is considered to be a continuous carriage . . . when a break of bulk, stoppage, or interruption is not made in good faith for a necessary purpose and with the intent of avoiding or unnecessarily interrupting the continuous carriage or of evading this subtitle" are substituted for "and no break of bulk, stoppage, or interruption made . . . shall prevent the carriage . . . from being and being treated as one continuous carriage . . . unless such break, stoppage, or interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this part" for clarity.

§ 10746. Transportation of commodities manufactured or produced by a rail carrier

A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may not transport from a State or territory or possession of the United States to another State, territory, or possession or a foreign country, an article or commodity that—

(1) is manufactured, mined, or produced by the carrier or under its authority; or

(2) is owned by the carrier or in which it has an interest.

However, a rail carrier may transport such an article or commodity when it is necessary and intended for use in the business of that carrier. This section does not apply to timber and products manufactured from timber.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1393.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10746.....	49:1(8).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(8); added June 29, 1906, ch. 3591, § 1, 34 Stat. 584; restated June 18, 1910, ch. 309, § 7, 36 Stat. 544; Feb. 28, 1920, ch. 91, § 401, 41 Stat. 475; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.

The words "rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title" are substituted for "railroad company" as being more accurate. The words "District of Columbia" is omitted as surplus in view of the definition of "State" in section 10102 of the revised title. The words "in whole or in part" and "direct or indirect" are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11126 of this title.

§ 10747. Transportation services or facilities furnished by shipper

A carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title may publish in a tariff filed with the Commission under subchapter IV of this chapter a charge or allowance for transportation or service for property when the owner of the property, directly or indirectly, furnishes a service related to or an instrumentality used in the transportation or service. The Commission may prescribe the maximum reasonable charge or allowance a carrier subject to its jurisdiction may pay for a service or instrumentality furnished under this section. The Commission may begin a proceeding under this section on its own initiative or on application.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1393.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10747.....	49:15(15).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 15(15); added June 29, 1906, ch. 3591, § 4, 34 Stat. 590; restated June 18, 1910, ch. 309, § 12, 36 Stat. 551; Feb. 28, 1920, ch. 91, § 421, 41 Stat. 488; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 10(d), 54 Stat. 912; Feb. 5, 1976, Pub. L. 94-210, § 202(c), 90 Stat. 35.
	49:324a.	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 225; added Sept. 18, 1940, ch. 722, § 26(a), 54 Stat. 928.
	49:914.	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 314; added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 945.
	49:1015.	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 415; added May 16, 1942, ch. 318, § 1, 56 Stat. 296.

The words "A carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title" are added in view of the restatement. The words "may publish a tariff filed with the Commission under subchapter IV of this chapter" are substituted for "shall be published in tariffs or schedules filed in the manner provided in this chapter" in view of subchapter IV of chapter 107 of the revised title that governs publication and filing of rates. The words "charge or allowance" are retained in view of the context. The words "shall be no more than is just and reasonable" are omitted as unnecessary in view of section 10701 of the revised title. See the revision note to section 10101 of the revised title. The words "The Commission may prescribe the maximum reasonable charge" are substituted for "and the Commission may . . . determine what is a reasonable charge as the maximum" for clarity and consistency with subchapter I of chapter 107 of the revised title. The words "and fix the same by appropriate order" are omitted as unnecessary in view of subchapter II of chapter 5 of title 5. The words "which order shall have the same force and effect and be enforced in like manner as the orders above provided for under this section" are omitted as unnecessary in view of the restatement. The last sentence is substituted for "after hearing on a complaint or on its own initiative" for consistency in view of subchapter II of chapter 103 of the revised title and subchapter II of chapter 5 of title 5.

§ 10748. Transportation of livestock by rail carrier

(a) Transportation entirely by railroad of ordinary livestock in carload lots to public stockyards shall include necessary services of unloading and reloading in route, delivery of inbound shipments at those stockyards into suitable pens, and receiving and loading outbound shipments at those stockyards. A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may charge a shipper, consignee, or owner an extra amount for those services only if, under Commission regulations, the unloading or reloading in route is at the request of the shipper, consignee, or owner, to try an intermediate market, or to comply with quarantine regulations.

(b) Subsection (a) of this section does not affect the duties and liabilities of a rail carrier in existence on February 28, 1920, under a law related to the transportation of other than ordinary livestock or the duty of providing transportation for shipments other than shipments to or from public stockyards.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1393.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10748.....	49:15(5).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 15(5); added Feb. 28, 1920, ch. 91, § 418, 41 Stat. 486; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.

In subsection (a), the word "entirely" is substituted for "wholly" for clarity. The words "to public stockyards" are substituted for "destined to or received at public stockyards" to eliminate redundancy. The word "in" is substituted for "en". The word "all" is omitted as surplus. The word "receiving" is substituted for "receipt" for clarity. The words "may charge . . . extra . . . only if" are substituted for "without extra charge . . . unless" for clarity. The words "under Commission regulations" are substituted for "The Commission may prescribe or approve just and reasonable rules governing each of those excepted services" to eliminate redundancy in view of the power of the Commission to carry out this subtitle and to prescribe regulations under section 10321 of the revised title and in view of the standard for practices under the subtitle in section 10701 of the revised title. See also the revision note to section 10101 of the revised title.

In subsection (b), the words "Subsection (a) of this section does not affect" are substituted for "Nothing in this paragraph shall be construed to affect" for clarity. The words "under a law related to" are substituted for "by virtue of law respecting the" for clarity.

§ 10749. Exchange of services and limitation on use of common carriers by freight forwarders

(a) A common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title may contract with a telephone, telegraph, or cable company to exchange services.

(b) A freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title may use a carrier, including a carrier referred to in this subsection, to transfer, collect, or deliver in a terminal area. However, to provide other services, a freight forwarder may only use—

(1) a rail, express, motor, or water common carrier providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title including—

(A) a motor common carrier providing exempt transportation under section 10525 or 10526(a)(8) of this title; or

(B) a water common carrier providing exempt transportation under section 10542(a) of this title or transportation between places in Alaska or Hawaii and between those places and other places in the United States;

(2) an air carrier subject to the jurisdiction of the Civil Aeronautics Board under chapter 20 of this title; or

(3) the Alaska Railroad.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1393.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10749(a).....	49:1(5½).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(5½); added June 18, 1910, ch. 309, § 7, 36 Stat. 546; Feb. 28, 1920, ch. 91, § 400, 41 Stat. 475; June 19, 1934, ch. 652, § 602(b), 48 Stat. 1102; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 2(d), 54 Stat. 900; Aug. 2, 1949, ch. 379, § 1, 63 Stat. 485.
10749(b).....	49:1018.	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 418; added May 16, 1942, ch. 318, § 1, 56 Stat. 297; July 12, 1960, Pub. L. 86-615, § 7, 74 Stat. 385.

In subsection (a), the words "A common carrier . . . may" are substituted for "Nothing in this Act shall be construed to prevent any common carrier" for clarity. The words "under chapter 105 of this title" are substituted for "subject to this Act" to conform to the revised title. The words "contract with" are substituted for "entering into or operating under any contract" to eliminate redundancy.

In subsection (b), the words "may only use" are substituted for "It shall be unlawful" for clarity. The word "use" is substituted for "utilize" as being more precise. The words "subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title" are inserted to conform to the revised title. The word "employ" is omitted as surplus. The words "other than" are omitted in view of the restatement. The words "including a carrier referred to in this subsection" are inserted for clarity. The words "rail, express, motor or water common carrier" are substituted for "common carriers by railroad, motor vehicle, or water, subject to this Act; express companies subject to this Act" to conform to the revised title. The words "subject to the jurisdiction of the Commission under chapter 105 of this title" are inserted to conform to the revised title. The word "places" is substituted for "ports" for consistency. The words "under the provisions of" are omitted as surplus. The word "providing" is substituted for "engaged in" for clarity.

The words "subject to the jurisdiction of the Civil Aeronautics Board under chapter 20 of this title" are substituted for "subject to the Civil Aeronautics Act of 1938" in view of the repeal of the Civil Aeronautics Act of 1938 by Public Law 85-726, title XIV, § 1401(b), August 23, 1958, 72 Stat. 806, and transfer of the authority contained in that Act to chapter 20 of title 49.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11126 of this title.

§ 10750. Demurrage charges

A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall compute demurrage charges, and establish rules related to those charges, in a way that fulfills the national needs related to—

(1) freight car use and distribution; and

(2) maintenance of an adequate supply of freight cars to be available for transportation of property.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1394.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10750.....	49:1(6) (last sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(6) (last sentence); added Feb. 5, 1976, Pub. L. 94-210, § 211, 90 Stat. 46.

The words "rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title" are added for clarity. The word "way" is substituted for "manner" as being more appropriate. The word "use" is substituted for "utilization" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11126 of this title.

SUBCHAPTER IV—TARIFFS AND TRAFFIC

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 10730, 10747, 11705, 11707, 11902 of this title.

§ 10761. Transportation prohibited without tariff

(a) Except as provided in this subtitle, a carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title shall provide that transportation or service only if the rate for the transportation or service is contained in a tariff that is in effect under this subchapter. That carrier may not charge or receive a different compensation for that transportation or service than the rate specified in the tariff whether by returning a part of that rate to a person, giving a person a privilege, allowing the use of a facility that affects the value of that transportation or service, or another device.

(b) The Commission may grant relief from subsection (a) of this section to contract carriers when relief is consistent with the public interest and the transportation policy of section 10101 of this title. The Commission may begin a proceeding under this subsection on application of a contract carrier or group of contract carriers and on its own initiative for a water contract carrier or group of water contract carriers.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1394.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10761(a).....	49:6(7).	Feb. 4, 1887, ch. 104, § 6(7), 24 Stat. 380; Mar. 2, 1889, ch. 382, § 1, 25 Stat. 855; restated June 29, 1906, ch. 3591, § 2, 34 Stat. 586; June 18, 1910, ch. 309, § 9, 36 Stat. 548; Aug. 24, 1912, ch. 390, § 11, 37 Stat. 568; Feb. 28, 1920, ch. 91, § 409, 41 Stat. 483; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
	49:317(b) (less proviso), (d); 318(a) (3d sentence and 7th sentence less proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §§ 217(b) (less proviso), (d), 218(a) (3d sentence, 7th sentence less proviso, and 7th sentence proviso related to relief); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 560; Sept. 18, 1940, ch. 722, §§ 22, 23(a), 54 Stat. 925; Aug. 13, 1957, Pub. L. 85-124, §§ 1(2), (4), 71 Stat. 343.
	49:906(c) (less proviso), (d) (1st sentence), (e) (3d sentence and 7th sentence less proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 306(c) (less proviso), (d) (1st sentence), (e) (3d sentence, 7th sentence less proviso, and 7th sentence proviso, related to relief); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 936.
	49:1005(c) (less proviso), (e).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 405(c) (less proviso), (e); added May 16, 1942, ch. 318, § 1, 56 Stat. 287.
10761(b).....	49:318(a) (7th sentence proviso, related to relief). 49:906(e) (7th sentence proviso, related to relief).	

The section consolidates and restates the source provisions for clarity.

In subsection (a), the words "Except as provided in this subtitle" are made applicable to all types of carriers although those words do not appear in 49:1005(e) for consistency. The word "transportation" is substituted for "service" in view of the definition of "transportation" in section 10102 of the revised title, but the word "service" is retained when referring to a freight forwarder for consistency. The words "a carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title" are inserted to conform to the revised title. The word "provide" is substituted for "participate" in 49:6(7) and "engage" in 49:317(d), 318(d), 906(d), (e), and 1005(e) for consistency. The words "contained in a tariff that is in effect under this subchapter" are substituted for "filed and published in accordance with the provisions of this chapter" in 49:6(7) and for "published, filed, and posted" in 49:318(a) and 906(e) for clarity. The word "lawfully" in 49:1005(c) is omitted as surplus. The words "charge or receive" are substituted for "charge", "receive", "demand", and "collect" to eliminate redundancy. The words "of passengers or property" are omitted as surplus. The words "between the points named in such tariffs" in 49:6(7) are omitted in view of the restatement. The word "different" is substituted for "greater" and "less" and is made applicable to motor and water carriers for clarity in view of the restatement. The words "whether by" are added for clarity. The words "returning a part of that rate" are substituted for "refund or remit in any manner" for clarity. The words "giving a person" are substituted for "extend to any shipper or person" for clarity. The words "allowing the use of" are added for clarity. The words "that affects the value of that transportation or service" are inserted for clarity. The words "directly or indirectly or through any agent or broker or otherwise" in 49:317(b), "special services" in 49:318(a), and "from the charges filed in accordance with this subsection, as affected by any rule, regulation, or practice so filed" in 49:318(a) are omitted as unnecessary in view of the restatement. The words "or less than the minimum rate or charge as may be prescribed by the Commission from time to time" are omitted as surplus in view of the restatement of 49:318(a) and in view of section 10704(c) of the revised title. The words "by means of a change in the terms and conditions of any contract, charter, agreement, or undertaking" in 49:906(e) are omitted as unnecessary in view of the restatement.

In subsection (b), the words "from subsection (a) of this section" are substituted for "from the provisions of this paragraph" in 49:318(a) and "from the provisions of this subsection" in 49:906(e) to conform to the revised title. The words "to such extent and for such time, and in such manner as in its judgment" are omitted as unnecessary in view of the restatement. The words "may begin a proceeding under this subsection" are substituted for "after hearing" in view of subchapter II of chapter 103 of the revised title and subchapter II of chapter 5 of title 5. The words "on application" are substituted for "may apply to" for clarity. The word "group" is substituted for "any class or group" as being more inclusive. The words "for good cause shown" in 49:906(e) (7th sentence proviso) are omitted as surplus in view of the specific criteria imposed by that section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10925, 11901 of this title.

§ 10762. General tariff requirements

(a)(1) A carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title (except a motor common carrier) shall publish and file with the Commission tariffs containing the rates and (A) if a common carrier, classifications, rules, and practices related to those rates, and (B) if a contract carrier, rules and practices related to those rates, established under this chapter for transportation or service it may provide under this subtitle. A motor common carrier shall publish and file with the Commission tariffs containing the rates for transportation it may provide under this subtitle. The Commission may prescribe other information that motor common carriers shall include in their tariffs. A motor contract carrier that serves only one shipper and has provided continuous transportation to that shipper for at least one year may file only its minimum rates unless the Commission finds that filing of actual rates is required in the public interest.

(2) Carriers that publish tariffs under paragraph (1) of this subsection shall keep them open for public inspection. A rate contained in a tariff filed by a common carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter II, III, or IV of chapter 105 shall be stated in money of the United States. A tariff filed by a

motor or water contract carrier or by a freight forwarder providing transportation or service subject to the jurisdiction of the Commission under subchapter II, III, or IV of that chapter, respectively, may not become effective for 30 days after it is filed.

(b)(1) The Commission shall prescribe the form and manner of publishing, filing, and keeping tariffs open for public inspection under this section. The Commission may prescribe specific charges to be identified in a tariff published by a common carrier providing transportation or service subject to its jurisdiction under subchapter I, III, or IV of that chapter, but those tariffs must identify plainly—

(A) the places between which property and passengers will be transported;

(B) terminal, storage, and icing charges (stated separately) if a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of that chapter;

(C) terminal charges if a common carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter III or IV of that chapter;

(D) privileges given and facilities allowed; and

(E) any rules that change, affect, or determine any part of the published rate.

(2) A joint tariff filed by a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of that chapter shall identify the carriers that are parties to it. The carriers that are parties to a joint tariff, other than the carrier filing it, must file a concurrence or acceptance of the tariff with the Commission but are not required to file a copy of the tariff. The Commission may prescribe or approve what constitutes a concurrence or acceptance.

(c)(1) When a common carrier providing transportation or service subject to the jurisdiction of the Commission (A) under subchapter I of chapter 105 of this title proposes to change a rate, or (B) under another subchapter of that chapter proposes to change a rate, classification, rule, or practice, the carrier shall publish, file, and keep open for public inspection a notice of the proposed change as required under subsections (a) and (b) of this section.

(2) When a contract carrier providing transportation subject to the jurisdiction of the Commission under subchapter II or III of chapter 105 of this title proposes to establish a new rate or to reduce a rate, directly or by changing a rule or practice related to the rate or the value of service under the rate, the carrier shall publish, file, and keep open for public inspection a notice of the new or reduced rate as required under subsections (a) and (b) of this section.

(3) A notice filed under this subsection shall plainly identify the proposed change or new or reduced rate and indicate its proposed effective date. A proposed change and a new or reduced rate may not become effective for 30 days after the notice is published, filed, and held open as required under subsections (a) and (b) of this section.

(d)(1) The Commission may reduce the 30-day period of subsections (a) and (c) of this section if cause exists. The Commission may change the other requirements of this section if cause exists in particular instances or as they apply to special circumstances.

(2) The Commission may prescribe regulations for the simplification of tariffs by carriers providing transportation subject to its jurisdiction under subchapter I of chapter 105 of this title and permit them to change rates, classifications, rules, and practices without filing complete tariffs that cover matter that is not being changed when the Commission finds that action to be consistent with the public interest. Those carriers may publish new tariffs that incorporate changes or plainly indicate the proposed changes in the tariffs then in effect and kept open for public inspection. However, the Commission shall require that all rates of rail carriers and rail rate-making associations be incorporated in their individual tariffs by the end of the 2d year after initial publication of the rate, or by the end of the 2d year after a change in a rate becomes effective, whichever is later. The Commission may extend those periods if cause exists, but if it does, it must send a notice of the extension and a statement of the reasons for the extension to Congress. A rate not incorporated in an individual tariff as required by the Commission is void.

(e) The Commission may reject a tariff submitted to it by a common carrier under this section if that tariff violates this section or regulation of the Commission carrying out this section.

(f) The Commission may grant relief from this section to contract carriers when relief is consistent with the public interest and the transportation policy of section 10101 of this title. The Commission may begin a proceeding under this subsection on application of a contract carrier or group of contract carriers and on its own initiative for a water contract carrier or group of water contract carriers.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1394.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10762(a).....	49:6(1) (1st and 2d sentences, and 3d sentence related to classifications).	Feb. 4, 1887, ch. 104, § 6(1), (3), (4), (6), and (9), 24 Stat. 380; Mar. 2, 1889, ch. 382, § 1, 25 Stat. 855; restated June 29, 1906, ch. 3591, § 2, 34 Stat. 586; June 18, 1910, ch. 309, § 9, 36 Stat. 548; Aug. 24, 1912, ch. 390, § 11, 37 Stat. 568; Feb. 28, 1920, ch. 91, §§ 409, 410, 41 Stat. 483; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 8, 54 Stat. 910; Feb. 5, 1976, Pub. L. 94-210, § 209, 90 Stat. 45.

HISTORICAL AND REVISION NOTES—Continued

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
	49:317(a) (1st and 2d sentences and 3d sentence 18th–29th words), 318(a) (2d sentence less words between 3d and 4th commas, 5th sentence, related to general requirements).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §§ 217(a), (c), 218(a) (2d, 5th, and 6th sentences, and 7th sentence proviso, related to general requirements); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 560; Sept. 18, 1940, ch. 722, § 22(e), 54 Stat. 925; Aug. 13, 1957, Pub. L. 85–124, § 1 (1), (3), 71 Stat. 343.
	49:906(a) (1st sentence), (b) (1st sentence), (e) (2d sentence, less words between 3d and 4th commas, 4th sentence, related to general requirements).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 306(a), (b), (d) (less 1st sentence), (e) (2d, 4th, 5th, and 6th sentences, and 7th sentence proviso, related to general requirements); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 935.
	49:1005(a) (1st sentence, 2d sentence 1st–10th, 23d–26th, and 51st–84th words), (b) (1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 405(a), (b), and (d); added May 16, 1942, ch. 318, § 1, 56 Stat. 287.
10762(b).....	49:6(1) (less 1st and 2d sentences, and less 3d sentence related to classifications), (4), (6) (1st sentence). 49:317(a) (3d sentence 1st–17th words), 318(a) (2d sentence words between 3d and 4th commas). 49:906(a) (less 1st sentence), (b) (2d sentence 1st cl.), (e) (2d sentence words between 3d and 4th commas). 49:1005(a) (less 1st sentence and 2d sentence 1st–10th, 23d–26th, and 51st–84th words), (b) (2d sentence, 1st cl.).	
10762(c).....	49:6(3) (words before 1st semicolon). 49:317(c) (1st and 2d sentences), 318(a) (5th sentence related to general requirements, 6th sentence). 49:906(d) (2d and 3d sentences), (e) (4th sentence related to general requirements, 6th sentence). 49:1005(d) (1st and 2d sentences).	
10762(d)(1).	49:6(3) (1st proviso). 49:317(c) (less 1st and 2d sentences); 318(a) (5th sentence related to general requirements). 49:906(d) (less 1st, 2d, and 3d sentences), (e) (5th sentence). 49:1005(d) (less 1st and 2d sentences).	
10762(d)(2).	49:6(3) (less words before 1st semicolon and 1st proviso), (6) (less 1st, 5th, and last sentences).	
10762(e).....	49:6(6) (5th and last sentences), (9).	

HISTORICAL AND REVISION NOTES—Continued

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
	49:317(a) (less 1st and 2d sentences, and 3d sentence less 1st–29th words). 49:906(b) (less 1st sentence and 2d sentence, 1st cl.). 49:1005(b) (less 1st sentence and 2d sentence, 1st cl.).	
10762(f).....	49:318(a) (7th sentence proviso, related to relief). 49:906(e) (7th sentence proviso, related to relief).	

The section consolidates and restates the source provisions for clarity. The word "tariff" is substituted for "tariffs" and "schedules" for consistency and in view of the definition of "tariff" in section 10102. The word "rate" is substituted for "rates, fares, and charges" for consistency in view of the definition of "rate" in section 10102 of this title. The word "rules" is substituted for "rules, and regulations" for consistency when referring to a carrier. The word "service" is retained for consistency when referring to a freight forwarder. The word "transportation" is substituted for "carried", "handled", and "transportation and services connected therewith" for consistency in view of the definition of "transportation" in section 10102 of this title.

In subsection (a), the words "A carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title" are inserted to conform the section to the revised title. The words "between different points on its own route and between points on its own route and points on the route of any other carrier" are omitted as unnecessary in view of the restatement. The words "If no joint rate over the through route has been established, the several carriers to such through route shaH file the separately established rates . . . applied to the through transportation" and "of passengers or property in interstate or foreign commerce" in 49:317(a), 318(a), and 906(a) and (e) are omitted as unnecessary in view of the restatement. The word "classifications" is substituted for "classification of freight in force" in 49:6(1) for clarity and consistency. The words "has provided" are substituted for "having rendered" for clarity. The word "that" is substituted for "such" for consistency. The words "for at least" are substituted for "not less than" for clarity. The word "reasonable" is omitted in view of section 10701 of the revision. See also the revision note to section 10101 of the revised title. The word "only" is inserted for clarity. The words "after hearing" in 49:318(a) (2d sentence proviso) are omitted as unnecessary in view of subchapter II of chapter 5 of title 5. The word "lawful" in 49:317(a), 906(b), and 1005(b) is omitted as surplus. The words "may not become effective for 30 days" are substituted for "except after thirty days' notice" in 49:318(a), 906(e), and 1005(a) for clarity. The words "on the route of any common carrier by railroad . . . when a through route and joint rate shall have been established" are omitted as unnecessary in view of the restatement. The words "subject to this chapter" in 49:1005(a) are omitted as unnecessary in view of the restatement.

In subsection (b), the words "The Commission may prescribe specific charges to be identified in a tariff" are substituted for "all other charges which the Commission may require" for clarity. The words "must identify plainly" are substituted for "shall plainly state" for clarity. The words "a common carrier pro-

viding transportation or service subject to its jurisdiction under subchapter I, III, or IV of that chapter" are inserted to conform to the revised title. The word "given" is substituted for "granted" for consistency. The words "A joint tariff . . . shall identify the carriers that are parties to it" are substituted for "The names of the several carriers which are parties to any joint tariff shall be specified therein" in 49:6(4) for clarity. The 4th and 5th sentences of 49:6(1) are omitted as obsolete and unnecessary in view of the restatement.

Subsection (c) is divided into paragraphs to preserve the existing distinctions applicable to the different types of carriers. The words "When a . . . carrier . . . proposes to" are inserted for clarity. The words "the carrier shall publish, file, and keep open for public inspection a notice . . . as required under subsections (a) and (b) of this section" are substituted for "published as aforesaid" for clarity. The words "A notice . . . shall plainly identify" are substituted for "which shall plainly state" for clarity. The words "the proposed change . . . and indicate its proposed effective date" are substituted for "the changes proposed to be made in the schedule then in force and the time when the changed rates . . . will go into effect" for clarity. The words "for 30 days after the notice is published, filed, and held open as required under subsections (a) and (b) of this section" are substituted for "except after thirty days' notice" for clarity.

In subsection (d), the words "The Commission may reduce the 30-day period of subsections (a) and (c) of this section" are substituted for "the Commission may . . . allow changes upon less than the notice herein specified" for clarity. The words "in its discretion" are omitted as surplus. The words "change the other requirements of this section" are substituted for "modify the requirements of this section in respect to publishing, posting, and filing of tariffs" for clarity. The words "in particular instances or as they apply to special circumstances" are substituted for "either in particular instances or by a general order applicable to special or peculiar circumstances or conditions" because of the general authority to prescribe regulations under section 10321(a) of the revised subtitle. The words "may prescribe regulations for the simplification of tariffs by" are substituted for "is hereby authorized to make suitable rules and regulations for the simplification of schedules" in 49:6(3) for clarity. The words "carriers providing transportation subject to its jurisdiction under subchapter I of chapter 105 of this title" are inserted to conform to the revised title. The words "permit them to change rates, . . . without filing complete tariffs that cover matter that is not being changed" are substituted for "to permit in such rules . . . the filing of an amendment of or change in any rate, . . . without filing complete schedules covering rates, . . . not changed" in 49:6(3) for clarity. The words "Those carriers may publish" are inserted for clarity. The words "new tariffs that incorporate changes or plainly indicate the proposed changes on the tariffs then in effect" are substituted for "the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time" in 49:6(3) for clarity. The words "beginning 2 years after February 4, 1976" in 49:6(6) are omitted as executed. The words "rail carriers" are substituted for "common carrier by railroad" in 49:6(6) for consistency. The words "subject to this chapter" in 49:6(6) are omitted as unnecessary in view of the restatement. The words "becomes effective" are substituted for "is approved" in 49:6(6) for clarity. The word "void" is substituted for "null and void" in 49:6(6) to eliminate redundancy. The words "of time" in 49:6(6) are omitted as surplus. The words "for the extension" are substituted for "therefore" in 49:6(6) for clarity. The word "send" is substituted for "shall be promptly transmitted" in 49:6(6) for clarity.

In subsection (e), the word "may" is substituted for "is authorized" for clarity. The word "submitted" is substituted for "filed" and for the text of 49:6(9) for clarity. The words "under this section" are inserted for clarity. The word "violates" is substituted for "which is not in accordance" for clarity. The words "Any schedule so rejected by the Commission shall be void and its use shall be unlawful" are omitted as unnecessary in view of the restatement.

In subsection (f), the words "from this section" are substituted for "from the provisions of this paragraph" in 49:318(a) and "from the provisions of this subsection" in 49:906(e) to conform to the revised title. The words "to such extent and for such time, and in such manner as in its judgment" are omitted as unnecessary in view of the restatement. The words "may begin a proceeding under this subsection" are substituted for "after hearing" in view of subchapter II of chapter 5 of title 5. The words "on application" are substituted for "may apply to" for clarity. The word "group" is substituted for "class or group" as being more inclusive. The words "for good cause shown" in 49:906(e) (7th sentence proviso) are omitted as surplus in view of the specific criteria imposed by that section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10764, 10765, 10925, 11901 of this title; title 43 section 942-1.

§ 10763. Designation of certain routes by shippers or Interstate Commerce Commission

(a)(1) When a person delivers property to a rail carrier for transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, the person may direct the carrier to transport the property over an established through route. When competing rail lines constitute a part of the route, the person shipping the property may designate the lines over which the property will be transported. The designation must be in writing. A carrier may be directed to transport property over a particular through route when—

(A) there are at least 2 through routes over which the property could be transported;

(B) a through rate has been established for transportation over each of those through routes; and

(C) the carrier is a party to those routes and rates.

(2) A carrier directed to route property transported under paragraph (1) of this subsection must issue a through bill of lading containing the routing instructions and transport the property according to the instructions. When the property is delivered to a connecting carrier, that carrier must also receive and transport it according to the routing instructions and deliver it to the next succeeding carrier or consignee according to the instructions.

(b) If no direction is made under subsection (a) of this section, the Commission may designate the route over which the property may be transported after arrival at the end of the route of one carrier or at a junction with the route of another carrier when the property is to be delivered to another carrier for further transportation. The Commission may act under this subsection when the public interest and a fair distribution of traffic require that action.

(c) The Commission may prescribe exceptions to the authority of a person to direct the movement of traffic under subsection (a) of this section.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1396.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10763(a).....	49:15(10) (less words between 5th and 6th commas).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 15(10), (12); added June 18, 1910, ch. 309, § 12, 36 Stat. 551; Feb. 28, 1920, ch. 91, §§ 418, 419, 41 Stat. 484; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Feb. 5, 1976, Pub. L. 94-210, § 202(c), 90 Stat. 35.
10763(b).....	49:15(12).	
10763(c).....	49:15(10) (words between 5th and 6th commas).	

In the section, the word "person" is substituted for "the person, firm, or corporation" and for "shipper" as being more inclusive.

In subsection (a)(1), the word "When" is substituted for "In all cases where" for clarity. The word "may" is substituted for "shall have the right" for clarity. The words "to a rail carrier for transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title," are substituted for "any railroad corporation being a common carrier for transportation subject to the provisions of this chapter" to conform to the revised title. The words "over an established through route" are substituted for "by which of such through routes such property shall be transported to destination" for clarity. The words "rail lines" are substituted for "lines of railroad" for consistency. The words "in all instances" are omitted as surplus.

In subsection (a)(1)(A), the words "there are at least 2 through routes over which the property could be transported" are substituted for "for transportation . . . to any point of destination, between which and the point of such delivery for shipment two or more through routes . . . shall have been established as in this chapter provided" for clarity.

In subsection (a)(1)(C), the words "the carrier is a party to those routes and rates" are substituted for "provided to which through routes and through rates such carrier is a party" for clarity.

In subsection (a)(2), the words "A carrier directed to route property" are substituted for "of the initial carrier" for clarity. The word "must" is substituted for "it shall thereupon be the duty" to reflect the condition precedent. The word "said" is omitted as surplus. The words "containing the routing instructions" are added for clarity and in view of their subsequent use in the proviso. The words "transport the property according to the instructions" are substituted for "to route said property . . . and to transport said property over its own line or lines and" for clarity. The words "When the property is delivered to a connecting carrier, that carrier must" are substituted for "deliver the same to a connecting line or lines according to such through route, and it shall be the duty of each of said connecting carriers" for clarity.

In subsection (b), the words "If no direction is made under subsection (a) of this section" are substituted for "With respect to traffic not routed by the shipper" for consistency. The words "may be transported" are substituted for "shall take" for clarity. The words "end of the route" are substituted for "terminus" for clarity. The words "another carrier for further transportation" are substituted for "there delivered to another carrier" for clarity.

In subsection (c), the words "The Commission may prescribe exceptions to the authority of a person to direct the movement of traffic under subsection (a) of this section" are substituted for "subject to such exceptions and regulations as the Interstate Commerce Commission shall from time to time prescribe" for clarity.

§ 10764. Arrangements between carriers: copy to be filed with Interstate Commerce Commission

(a)(1) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall file with the Commission a copy of each arrangement related to transportation affected by this subtitle that the carrier has with another common carrier. The Commission may require other carriers and brokers subject to its jurisdiction under chapter 105 to file a copy of each arrangement related to transportation or service affected by this subtitle that they have with other persons.

(2) When the Commission finds that filing a class of arrangements by a carrier subject to its jurisdiction under subchapter I of that chapter is not necessary in the public interest, the Commission may except the class from paragraph (1) of this subsection.

(b) The Commission may disclose the existence or contents of an arrangement between a contract carrier and a shipper filed under subsection (a) of this section only if the disclosure is—

(1) limited to those parts of the arrangement that are necessary to indicate the extent of its failure to conform to a tariff then in effect under section 10762 of this title; or

(2) consistent with the public interest and made as a part of the record in a formal proceeding.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1397.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10764(a).....	49:6(5).	Feb. 4, 1887, ch. 104, § 6(5), 24 Stat. 380; Mar. 2, 1889, ch. 382, § 1, 25 Stat. 855; June 29, 1906, ch. 3591, § 2, 34 Stat. 586; June 18, 1910, ch. 309, § 9, 36 Stat. 548; Feb. 28, 1920, ch. 91, § 409, 41 Stat. 483; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 8, 54 Stat. 910; restated Aug. 2, 1949, ch. 379, § 5, 63 Stat. 486.
	49:320(a) (3d sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 220(a) (less 1st and 2d sentences); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 563; restated Sept. 18, 1940, ch. 722, § 24, 54 Stat. 926.

HISTORICAL AND REVISION NOTES—Continued

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
	49:913(b) (1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 313(b); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 944.
	49:1012(a) (last sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 412(a) (last sentence); added May 16, 1942, ch. 318, § 1, 56 Stat. 294.
10764(b).....	49:320(a) (less 1st, 2d, and 3d sentences). 49:913(b) (less 1st sentence).	

The section consolidates and restates the source provisions for clarity. The word "arrangement" is substituted for "contracts", "agreements", and "arrangements" as being more inclusive. The word "transportation" is substituted for "facilities", "service", and "traffic" for clarity and in view of the definition of "transportation" in section 10102 of the revised title.

In subsection (a), the words "to which it may be a party" in 49:6(5) are omitted as unnecessary in view of the restatement. The word "subtitle" is substituted for "the provisions of this chapter" to conform to the revised title. The words "any other carrier" in 49:320(a) and 1012(a) are omitted as unnecessary in view of the restatement. The word "each" is substituted for "all" for clarity. The word "another" is substituted for "other" for clarity. The words *"Provided, however"* in 49:6(5) are omitted as unnecessary in view of the restatement. The words "by regulations" in 49:6(5) are omitted as unnecessary in view of section 10321(a) of this title giving the Commission general authority to prescribe regulations. The words "may except" are substituted for "may provide for exceptions" in 49:6(5) for clarity. The words "from paragraph (1) of this subsection" are substituted for "from the requirements of this paragraph" in 49:6(5) to conform to the revised title. The words "when the Commission finds that filing a class of arrangements . . . is not necessary in the public interest" are substituted for "the filing of which, in its opinion, is not necessary in the public interest" in 49:6(5) for clarity. The words "classes" in 49:6(5) and "true" in 49:320(a), 913(b), and 1012(a) are omitted as surplus.

In subsection (b), the words "may . . . only if" are substituted for "shall not . . . unless" for clarity. The word "disclose" is substituted for "make public" for clarity. The words "the existence or contents of an arrangement" are substituted for "any . . . arrangement . . . or any of the terms or conditions thereof" for clarity. The word "except" is omitted in view of the restatement. The words "*Provided*, That if it appears from an examination" and "in its discretion" are omitted as unnecessary in view of the restatement. The word "parts" is substituted for "portions" as being more appropriate. The words "the extent of its failure" are substituted for "to disclose such failure and the extent thereof" for clarity. The words "tariff that is then in effect under section 10762 of this title" are substituted for "published schedule of the contract carrier . . . as required by section 318(a) of this title" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11348, 11901 of this title.

§ 10765. Water transportation under arrangements with certain other carriers

(a) The Interstate Commerce Commission may require a common carrier providing transportation or service subject to its jurisdiction under chapter 105 of this title that makes an arrangement with a water carrier (whether or not subject to its jurisdiction under this subtitle) providing transportation from a port in the United States to another country for the through transportation of property from a place in the interior of the United States to another country to make similar arrangements with steamship lines that provide transportation from that port to that country.

(b) A carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title that transports property from a place in the United States through another country to a place in the United States shall publish and keep open for public inspection tariffs as required under section 10762 of this title. The tariffs shall identify the through rate established for that transportation to the United States from another country to which the carrier accepts property for shipment from the United States. Unless the through rates are available for public inspection under that section, the property is subject to customs duties applicable to property produced in another country before the property may be admitted to the United States.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1397.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10765(a).....	49:6(12).	Feb. 4, 1887, ch. 104, § 6(2), (12), 24 Stat. 380; Mar. 2, 1889, ch. 382, § 1, 25 Stat. 855; restated June 29, 1906, ch. 3591, § 2, 34 Stat. 586; June 18, 1910, ch. 309, § 9, 39 Stat. 548; Feb. 28, 1920, ch. 91, § 409, 41 Stat. 483; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 8(d), 54 Stat. 910.
10765(b).....	49:6(2).	

In subsection (a), the words "a common carrier providing transportation or service subject to its jurisdiction under chapter 105 of this title" are substituted for "any common carrier subject to this Act" to conform to the revised title. The words "by order" are omitted as unnecessary in view of the restatement. The word "place" is substituted for "points" for clarity. The words "transportation" is substituted for "handling of . . . business" in view of the definition of "transportation" in section 10102 of this title. The words "steamship lines" are substituted for "any or all other lines of steamships" for clarity. The words "that provide transportation from that port to that country" are substituted for "operating from said port to the same foreign country" for clarity.

In subsection (b), the words "A carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title" are substituted for "Any common carrier subject to the provisions of this chapter" to conform to the revised title. The word "property" is substituted for "freight" for consistency. The words "at every depot or office where such freight is received for shipment" are omitted as unnecessary in view of section 10762 of

the revised title. The words "Unless the through rates are available for public inspection" are substituted for "the through rate on which shall not have been made public, as required by this chapter" for clarity. The words "the property is subject to customs duties applicable to property produced in another country before the property may be admitted to the United States" are substituted for "before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production" for clarity. The words "as if" are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11901 of this title.

§ 10766. Freight forwarder traffic agreements

(a) A freight forwarder providing service subject to the jurisdiction of the Interstate Commerce Commission under subchapter IV of chapter 105 of this title may agree with another freight forwarder to load traffic jointly between places served under this subtitle. However, the Commission may cancel, suspend, or require changes in the agreement when the Commission finds the agreement is inconsistent with the transportation policy of section 10101 of this title.

(b) A freight forwarder providing service subject to the jurisdiction of the Commission under that subchapter may contract with motor common carriers providing transportation subject to the jurisdiction of the Commission under subchapter II of that chapter, to provide transportation for the forwarder. A copy of that contract must be filed with the Commission. The contract may govern use by the freight forwarder of the services and instrumentalities of the motor common carrier and the compensation to be paid for the transportation. However, the parties to a contract must establish reasonable conditions and compensation that are consistent with the transportation policy of section 10101 of this title and do not unreasonably discriminate against a party or another freight forwarder. When a contract under this subsection governs line-haul transportation of property for a total distance of at least 450 highway miles in truckload lots between concentration and break-bulk places, the compensation paid to a motor common carrier under the contract may not be less than the rate for that transportation established under this chapter. When the Commission finds that a contract, or its conditions or compensation, under this subsection is or will be inconsistent with this subsection, the Commission shall prescribe consistent conditions and compensation.

(c) The Commission may begin a proceeding under this section on its own initiative or on complaint.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1398.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10766(a).....	49:1004(d) (less words between 4th and 5th commas).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §§ 404(d), 409; added May 16, 1942, ch. 318, § 1, 56 Stat. 287, 290; Nov. 12, 1943, ch. 299, §§ 1, 2, 57 Stat. 590; May 16, 1945, ch. 128, § 1, 59 Stat. 169; Feb. 20, 1946, ch. 32, § 1, 60 Stat. 21; restated Dec. 20, 1950, ch. 1140, § 2, 64 Stat. 1114.
10766(b).....	49:1009(a), (b) (less 2d sentence 1st–10th words).	
10766(c).....	49:1004(d) (words between 4th and 5th commas). 49:1009(b) (2d sentence 1st–10th words).	

In subsection (a), the word "may" is substituted for "Nothing in this chapter shall be construed to prohibit" for clarity. The word "agree" is substituted for "entering into an agreement" for clarity. The words "places served under this subtitle" are substituted for "points in transportation subject to this chapter" for clarity. The word "However" is substituted for "except that" for clarity. The word "changes" is substituted for "modification" for clarity.

In subsection (b), the word "may" is substituted for "Nothing in this Act shall be construed to prevent" for clarity. The words "contract with" are substituted for "entering into or continuing . . . under contracts" for clarity. The words "*Provided*, That" and "*And provided further*, That" are omitted as surplus. The words "parties to a contract must" are substituted for "in the case of such contracts it shall be the duty of the parties thereto" for clarity. The words "just and equitable" are omitted as surplus. The words "unreasonably discriminate against a party" are substituted for "unduly prefer or prejudice any of such participants" for clarity and as being more inclusive. See the revision note to section 10101 of the revised title. The words "When a contract under this subsection governs" are substituted for "in the case of" for clarity. The words "where such line-haul transportation is" are omitted as unnecessary. The words "at least 450 highway miles" are substituted for "of four hundred and fifty highway miles or more" for clarity. The words "the compensation paid . . . under the contract may not be less" are substituted for "such contracts shall not permit payment . . . of compensation which is lower than" for clarity. The word "rate" is substituted for "rates or charges" in view of the definition of "rate" in section 10102 of the revised title. The words "under this chapter" are substituted for "under chapter 8 of this title" in view of the restatement. The words "in accordance with such reasonable rules and regulations as the Commission shall prescribe" are omitted as unnecessary in view of section 10321 of the revised title giving the Commission the power to carry out the subtitle and to prescribe regulations. The word "finds" is substituted for "is the opinion" in view of subchapter II of chapter 5 of title 5.

In subsection (c), the word "proceeding" is substituted for "hearing" in view of subchapter II of chapter 5 of title 5. The words "may begin . . . on its own initiative or on application" are made applicable to 49:1004(d) for clarity and consistency.

SUBCHAPTER V—VALUATION OF PROPERTY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 11901 of this title; title 26 section 185.

§ 10781. Investigation and report by Interstate Commerce Commission

(a) The Interstate Commerce Commission shall investigate, establish, and report the value of all property owned or used by each carrier providing transportation subject to its jurisdiction under subchapter I of chapter 105 of this title, except a street, suburban, or interurban electric rail carrier not operated as a part of a general railroad system of transportation. However, the Commission may investigate, establish, and report the value of property owned or used by such an electric rail carrier when the Commission decides that action is desirable in the public interest. When the Commission makes an investigation required to be made under this section, it must—

(1) inventory and list the property of that carrier in detail;

(2) indicate the value established under section 10782 of this title for that property; and

(3) classify the physical property under classifications that conform, as nearly as practicable, to the classification of expenditures prescribed by the Commission for railroads and equipment.

(b) Except as provided in subsection (a) of this section, the Commission may prescribe—

(1) the procedure to be followed when conducting an investigation under this subchapter;

(2) the form in which to submit the results of the valuation; and

(3) the classification of the elements that make up the established value.

The report for each investigation conducted under this subchapter shall indicate the value of the property of each common carrier as a whole and separately identify the value of its property in each State and territory and possession of the United States in which the property is located.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1398.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10781(a).....	49:19a(a) (1st and last sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 19a(a) (1st and last sentences), (c); added Mar. 1, 1913, ch. 92, § 1, 37 Stat. 701; Feb. 28, 1920, ch. 91, § 433, 41 Stat. 493; June 16, 1933, ch. 91, § 207, 48 Stat. 221; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
10781(b).....	49:19a(c).	

In subsection (a), the word "establish" is substituted for "ascertain" as being more appropriate. The word "each" is substituted for "every" for clarity. The words "providing transportation subject to its jurisdiction under subchapter I of chapter 105 of this title" are substituted for "subject to the provisions of this chapter" to conform to the revised title. The words "rail carrier" are substituted for "railway" for consistency. The words "in its discretion" are omitted as surplus. The words "subject to the provisions of this chapter" in 49:19a(a) (1st sentence 2d clause) are omitted as unnecessary in view of the restatement of that section. The word "decides" is substituted for "in its judgment" for consistency. The words "When the Commission makes an investigation required to be made under this section" are substituted for "subject to the exception hereinbefore provided for in the case of electric railways" for clarity. The word "indicate" is substituted for "show" for clarity. The words "value established under section 10782 of this title" are substituted for "value . . . as hereinbefore provided" as being more precise.

In subsection (b), the cross reference to subsection (a) is substituted for "herein otherwise provided" for clarity. The words "Commission may" are substituted for "the Commission shall have the power to" for clarity. The words "method of" are omitted as surplus. The words "when conducting" are substituted for "in the conduct of the" to reflect the continued applicability of 49:19a. The words "to submit" are substituted for "shall be submitted" for clarity. The word "established" is substituted for "ascertained" for consistency. The words "The report for" are inserted for clarity. The words "territory and possession" are substituted for "Territories" for consistency. The words "classified and in detail as herein required" are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10782 of this title.

§ 10782. Requirements for establishing value

(a) In carrying out an investigation of a common carrier required under section 10781 of this title, the Interstate Commerce Commission shall—

(1) establish, for each piece of property except land owned or used by the carrier as a common carrier, the original cost to date, cost of reproduction new and cost of reproduction less depreciation, and analyze the methods used to establish those costs and the reasons for differences among them;

(2) establish other values, and elements of value, of that property and analyze the methods used to establish them and the reasons for differences between them and the cost values established under clause (1) of this subsection;

(3) establish separately from improvements, the original cost on the date of dedication to public use, of all lands, rights of way, and terminals owned or used by the carrier as a common carrier and establish their current value;

(4) identify property not held by the carrier as a common carrier, its original cost, and current value and analyze the methods of valuation used;

(5) establish the amount and value of assistance or grant of right of way made to the carrier, or to a previous corporation that operated its property, by the United States Government or by a State, county, or municipal government, or by an individual, association, or corporation and the amount and value of any concession and allowance made by the United

States Government or another of those governments in consideration of that assistance; and

(6) identify the grants of land to that carrier, or to a previous corporation that operated its property, by the United States Government, or by a State, county, or municipal government, the amount of money derived from the sale of part of those grants, the value of the unsold parts (established as of the date acquired and currently), and the amount and value of any concession and allowance made by the carrier to the United States Government, or another of those governments, in consideration of that assistance or grant of land.

(b) The Commission may prescribe elements to consider in establishing the cost to date of property owned or used by a carrier. However, in establishing that cost, the Commission shall investigate and include in those elements—

(1) the history and organization of the corporation that currently operates the property and of previous corporations that also operated that property;

(2) increases or decreases of securities during reorganization of that corporation or such a previous corporation;

(3) money received through the issuance of securities by that corporation or such a previous corporation;

(4) syndicating, banking, and other financial arrangements under which those securities were issued and the expenses thereof;

(5) the net and gross earnings of those corporations; and

(6) the expenditure of all money and the purposes of those expenditures in as much detail as the Commission determines to be necessary.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1399.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10782(a).....	49:19a(b) (less 4th par.).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 19a(b); added Mar. 1, 1913, ch. 92, § 1, 37 Stat. 701; Feb. 28, 1920, ch. 91, § 433, 41 Stat. 493; June 7, 1922, ch. 210, §§ 1, 2, 42 Stat. 624; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
10782(b).....	49:19a(b) (4th par.).	

In subsection (a), the words "First.", "Second.", "Third.", "Fourth.", and "Fifth." are omitted as unnecessary in view of the restatement. The words "investigation of a common carrier required under section 10781 of this title" are substituted for "In such investigation" as being more precise. The word "establish" is substituted for "ascertain" for clarity. The words "report" and "report in detail" are omitted as surplus in view of the requirement that the Commission report under section 10781 of the revised title. The words "analyze the methods used" are substituted for "and an analysis of the methods by which" for clarity. The words "The Commission shall in like manner . . . and report separately" are omitted as unnecessary in view of the restatement.

In subsection (a)(3), the words "establish separately" are substituted for "state in detail and separately" for clarity and consistency.

In subsection (a)(4), the word "identify" is substituted for "show separately" for clarity. The word "current" is substituted for "present" as being more appropriate.

In subsection (a)(5) and (6), the word "assistance" is substituted for "aid, gift, . . . donation" as being inclusive. In subsection (a)(5), the words "grant of right-of-way" are retained because they refer to an interest in land. In subsection (a)(6), the word "part" is substituted for "portion" for consistency. The word "also" is omitted as surplus.

In subsection (b), the words "The Commission may prescribe elements to consider in establishing" are substituted for "to such other elements as it may deem necessary" for clarity. The words "in addition" are omitted as surplus. The words "as the Commission determines to be necessary" are substituted for "in such detail as may be determined by the Commission" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10781 of this title.

§ 10783. Cooperation and assistance of carriers

(a) Each common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall cooperate with and assist the Commission in valuing property under this subchapter. The Commission may order those carriers to—

(1) give to the Commission maps, profiles, contracts, engineering reports, and other records to assist it in investigating and establishing the value of that carrier's property; and

(2) assist the Commission in valuing property under this subchapter in other ways, including giving its agents free access to its right-of-way, property, and records on request.

(b) A rail carrier whose property is being valued under this subchapter shall—

(1) transport employees of the United States Government who are making surveys and other examinations of the physical property of that carrier in the course of that valuation when reasonably required by them in the actual discharge of their duties;

(2) transport and store the cars of the United States Government that are used to house and maintain those employees when reasonably required during the valuation; and

(3) transport supplies necessary to maintain those employees and the property of the United States Government actually used on the railroad during the valuation.

(c) The transportation required to be provided under subsection (b) of this section is considered a special service for which the Commission may prescribe the compensation to be paid. A rail carrier shall give the Commission an accurate accounting of the transportation provided under this section when required by the Commission.

(d) The Commission shall keep records compiled under this subchapter open for public inspection. However, the Commission may order

those records closed to the public but must state its reasons for closing them.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1400.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10783(a).....	49:19a(e) (less last sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 19a(e); added Mar. 1, 1913, ch. 92, § 1, 37 Stat. 701; Feb. 28, 1920, ch. 91, § 433, 41 Stat. 493; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
10783(b), (c).	49:52.	Aug. 1, 1914, ch. 223, § 1 (5th full par.), 38 Stat. 627.
10783(d).....	49:19a(e) (last sentence).	

In subsection (a), the words "Each common carrier . . . shall cooperate with and assist" are substituted for "and every common carrier is directed and required to cooperate with and aid" for clarity. The words "or its agents" are omitted as surplus. The words "from time to time" are omitted as surplus. The words "other records" are substituted for "and any other documents, records, and papers, or copies of any or all of the same" as being more inclusive. The word "establishing" is substituted for "determination" for consistency.

In subsection (a)(2), the words "and shall grant to all agents of the Commission free access to its right-of-way, its property, and its accounts, records, and memoranda whenever and wherever requested by any such duly authorized agent" and "in such further particulars and to such extent as the Commission may require and direct" are restated and consolidated for clarity. The words "its agents" are retained in view of the context. The words "all rules and regulations made by the Commission for the purpose of administering the provisions of the section and section 20 of this title shall have the full force and effect of law" are omitted as surplus in view of section 10321 of the revised title.

In subsection (b), the words "a rail carrier . . . shall" are substituted for "It shall be the duty of every common carrier by railroad" for clarity. The words "employees of the United States Government" are substituted for "the engineers, field parties, and other employees of the United States" since it is more inclusive. The words "in the course of that valuation" are substituted for "to execute said section" for clarity. The words "from point to point on said railroad" are omitted as surplus. The word "also" is omitted as surplus. The word "transport" is substituted for "move" and "carry" for consistency. The word "during" is substituted for "in said work of" for clarity.

In subsection (c), the words "the Commission may prescribe the compensation to be paid" are substituted for "shall be rendered under such forms and regulations and for such reasonable compensation as may be prescribed by the Interstate Commerce Commission" and "as will insure an accurate record and account of the services rendered by the railroad" for clarity. The words "such forms" are omitted as included in "regulations". The words "A rail carrier shall give the Commission an accurate accounting of the transportation provided" are substituted for "and such evidence of transportation, bills of lading, and so forth, shall be furnished to the Commission as may from time to time be required by the Commission" for clarity.

In subsection (d), the word "records" is substituted for "records and data" as being more inclusive and for consistency. The words "compiled under this subchapter" are inserted for clarity. The word "inspection" is substituted for "inspection and examination" to eliminate redundancy. The words "However, the Commission may order those records closed" are substituted for "Unless otherwise ordered by the Commission" for clarity.

§ 10784. Revision of property valuations

(a) When the Interstate Commerce Commission completes an initial valuation of property under this subchapter, it shall thereafter correct, revise, and supplement that valuation, including previous inventories and classifications, by keeping itself informed of new construction, changes in condition, quantity, use, and classification of property on which an initial valuation was made and the cost of all improvements to, and changes in investment, in that property. The Commission may keep itself informed of current changes in costs and values of railroad property to carry out this section.

(b) The Commission may order a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title to give it reports and information needed to carry out this section.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1400.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10784(a).....	49:19a(f).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 19a(f), (g); added Mar. 1, 1913, ch. 92, § 1, 37 Stat. 702; Feb. 28, 1920, ch. 91, § 433, 41 Stat. 493; restated June 16, 1933, ch. 91, § 208, 48 Stat. 221; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
10784(b).....	49:19a(g).	

In subsection (a), the words "When the . . . Commission completes an initial valuation of property under this subchapter" are substituted for "Upon completion of the original valuations herein provided for" for clarity. The word "initial" is substituted for "original" as being more appropriate. The words "to carry out this section" as substituted for "in order that it may have available at all times the information deemed by it to be necessary to enable it to" in view of the restatement of 49:19a(f).

In subsection (b), the words "To enable . . . the provisions of" are omitted as surplus. The words "this section" is substituted for "paragraph (f) of this section" in view of the restatement. The word "needed" is added for clarity.

§ 10785. Finality of valuation: notice, protest, and review

(a) The Interstate Commerce Commission shall notify the carrier, the Attorney General, and the chief executive officer of each State in which property being valued under this subchapter is located, of the completion of a tentative valuation of that property. The Commission may also notify other parties. The notice must be sent by certified mail and must indicate the valuation established for each of that carrier's classes of property. A valuation of property under this subchapter becomes final if a protest is not filed within 30 days after notice of the tentative valuation of that property is given. When the tentative valuation becomes final under this subsection, the effective date is the date of the tentative valuation.

(b) When a carrier files a protest of a tentative valuation, the Commission shall begin a proceeding to consider the protest. If the Commission decides that a tentative valuation should be changed, it may make the necessary changes. The tentative valuation, as changed, becomes final and is effective on the date of the final action of the Commission under this subsection.

(c) The Commission shall publish final valuations and classifications of property established under this subchapter. A final valuation or classification that has become effective under this subchapter is prima facie evidence of the value of the property in a proceeding under this subtitle and in a judicial proceeding to enforce, enjoin, set aside, annul, or suspend an action of the Commission.

(d) When evidence is introduced at the trial of an action involving a final valuation of property established by the Commission and found by the court to be different from the evidence offered to the Commission during a proceeding under subsection (b) of this section or in addition to that evidence and substantially affecting the valuation, the court shall send a copy of that evidence to the Commission and stay further proceedings in the action. The court may determine the duration of the stay of proceedings. The Commission shall consider the evidence and may change the final valuation established under this subchapter. The Commission shall complete its action and report to the court in the time determined by the court. If the Commission changes the valuation, the court must substitute the valuation as changed for the original valuation and give its judgment on the substituted valuation. If the Commission does not change the original valuation, the court must give judgment on the original valuation.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1401.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10785(a).....	49:19a(h).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 19a(h), (i), (j); added Mar. 1, 1913, ch. 92, § 1, 37 Stat. 702; Feb. 28, 1920, ch. 91, § 433, 41 Stat. 493; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; June 11, 1960, Pub. L. 86-507, § 1(38), 74 Stat. 202.
10785(b), (c).	49:19a(i).	
10785(d).....	49:19a(j).	

In subsection (a), the words "shall notify" are substituted for "shall give notice" for clarity. The words "of the United States" are omitted as surplus. The words "chief executive officer" are substituted for "governor" in view of the inclusion of the District of Columbia. The words "each State" are substituted for "of any State" as being more appropriate. The words "of the completion of a tentative valuation" are substituted for "Whenever . . . shall have completed the tentative valuation" for clarity. The words "The Commission may also notify other parties" are substituted for "and to such additional parties as the Commission may prescribe" for clarity and consistency in view of the general power of the Commission to carry out the revised subtitle and to prescribe regulations under section 10321 of the revised title. The words "The notice must be sent" are inserted for clarity. The word "registered" is omitted as unnecessary since it refers to an inappropriate class of mail. The words "established for" are substituted for "placed upon" for clarity. The word "several" is omitted as surplus. The words "A valuation of property under this subchapter becomes final" are inserted for clarity. The words "as herein directed, and before such valuation shall become final" and "and shall allow thirty days in which to file a protest of the same with the Commission" are omitted as unnecessary in view of the restatement. The words "When the tentative valuation becomes final under this section" are substituted for "If no protest is filed within thirty days" in view of the restatement. The words "the effective date is the date of the tentative valuation" are substituted for "said valuation shall become final as of the date thereof" for clarity.

In subsection (b), the word "When" is substituted for "If" as more appropriate. The words "notice of" are omitted as surplus. The words "begin a proceeding to consider the protest" are substituted for "fix a time for hearing the same, and shall proceed as promptly as may be to hear and consider any matter relative and material thereto which may be presented in support of any such protest so filed as aforesaid" in view of subchapter II of chapter 5 of title 5 and subchapter II of chapter 103 of the revised title. The words "If the Commission decides that a tentative valuation should be changed, it may make the necessary changes" are substituted for "If after hearing any protest of such tentative valuation under the provisions of this chapter the Commission shall be of the opinion that its valuation should not become final, it shall make such changes as may be necessary" for consistency in view of subchapter II of chapter 5 of title 5 and subchapter II of chapter 103 of the revised title. The words "The tentative valuation, as changed, becomes final and is effective on the date of the final action of the Commission under this subsection" are substituted for "and shall issue an order making such corrected tentative valuation final as of the date thereof" for clarity and consistency in view of the restatement.

In subsection (d), the word "When" is substituted for "If upon" for clarity. The word "established" is substituted for "fixed" for consistency. The words "is introduced" are substituted for "shall be introduced" to put the sentence in the active voice. The words "during a proceeding under subsection (b) of this section" are substituted for "hearing before the Commission" as being more precise. The word "send" is substituted for "transmit" for clarity. The words "before proceeding to render judgment" are omitted as surplus in view of the restatement of 49:19a(j). The words "from the date of such transmission" are omitted as surplus. The words "Upon the receipt of such evidence" are omitted as surplus. The words "may change the final valuation established under this subchapter" are substituted for "may fix a final value different from the one fixed in the first instance, and may alter, modify, amend or rescind any order which it has made involving said final value" for clarity and consistency in view of subchapter II of chapter 103 of the revised title. The word "changes" is substituted for "alter, modify, or amend" for consistency and to eliminate redundancy. The words "the court must substitute" are added for clarity. The words "give its judgment" are substituted for "judgment shall be rendered" for clarity. The words "on the substituted valuation" are substituted for "thereon as though made by the Commission in the first instance" for clarity. The words "in the time determined" are substituted for "within the time fixed" for clarity.

§ 10786. Applicability

In addition to common carriers providing transportation subject to the jurisdiction of the

Interstate Commerce Commission under subchapter I of chapter 105 of this title, this subchapter applies to receivers and operating trustees of those carriers.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1401.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10786.....	49:19a(k) (1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 19a(k) (1st sentence); added Mar. 1, 1913, ch. 92, § 1, 37 Stat. 703; Feb. 28, 1920, ch. 91, § 433, 41 Stat. 493.

The words "In addition to common carriers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title" are added for clarity.

CHAPTER 109—LICENSING

SUBCHAPTER I—RAILROADS AND FERRIES

Sec.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 10701 of this title.

SUBCHAPTER I—RAILROADS AND FERRIES

§ 10901. Authorizing construction and operation of railroad lines

(a) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may—

(1) construct an extension to any of its railroad lines;

(2) construct an additional railroad line;

(3) acquire or operate an extended or additional railroad line; or

(4) provide transportation over, or by means of, an extended or additional railroad line;

only if the Commission finds that the present or future public convenience and necessity require or will be enhanced by the construction or acquisition (or both) and operation of the railroad line.

(b) A proceeding to grant authority under subsection (a) of this section begins when an application is filed. On receiving the application, the Commission shall—

(1) send a copy of the application to the chief executive officer of each State that would be directly affected by the construction or operation of the railroad line;

(2) send an accurate and understandable summary of the application to a newspaper of general circulation in each area that would be affected by the construction or operation of the railroad line;

(3) have a copy of the summary published in the Federal Register;

(4) take other reasonable and effective steps to publicize the application; and

(5) indicate in each transmission and publication that each interested person is entitled to recommend to the Commission that it approve, deny, or take other action concerning the application.

(c)(1) If the Commission—

(A) finds public convenience and necessity, it may—

(i) approve the application as filed; or

(ii) approve the application with modifications and require compliance with conditions the Commission finds necessary in the public interest; or

(B) fails to find public convenience and necessity, it may deny the application.

(2) On approval, the Commission shall issue to the rail carrier a certificate describing the construction or acquisition (or both) and operation approved by the Commission.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1402.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10901(a).....	49:1(18)(a) (less words related to certificates and less last sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(18)(a), (b); added Feb. 28, 1920, ch. 91, § 402, 41 Stat. 477; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 4(c), 54 Stat. 902; restated Feb. 5, 1976, Pub. L. 94-210, § 801(a), 90 Stat. 125.
10901(b).....	49:1(18)(a) (last sentence).	
10901(c).....	49:1(18)(a) (related to certificates), (b).	

In subsection (a)(1) and (2), the word "undertake" is omitted as unnecessary.

In subsection (a), after clause (4), the words "such extended or additional" are omitted as surplus. The words "or acquisition (or both)" are inserted for clarity and consistency with clause (3).

In subsection (b), the first sentence is inserted for clarity. The word "deny" is substituted for "disapprove" for consistency.

In the introductory matter of subsection (c), before clause (1), the first 2 sentences of 49:1(18)(b) are omitted as unnecessary in view of section 10321(a) of the revised title giving the Commission general authority to carry out the subtitle and prescribe regulations. The words "terms and" are omitted as unnecessary.

In subsection (c)(2), the words "or acquisition (or both)" are inserted for clarity and consistency with subsection (a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10503, 10902, 10907, 11126, 11505, 11702, 11901 of this title; title 45 section 904.

§ 10902. Authorizing action to provide adequate, efficient, and safe facilities

The Interstate Commerce Commission may authorize a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title to take action necessary to provide adequate, efficient, and safe facilities to enable the rail carrier to perform its obligations under this subtitle, including extension of any of the carrier's railroad lines after issuance of a certificate under section 10901 of this title. The Commission may authorize a rail carrier to act under this section only if it finds that the expense involved will not impair the ability of the carrier to perform its obligations to the public. The Commission may conduct a proceeding on its own initiative or on application of an interested party.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1403.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10902.....	49:1(18)(c).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(18)(c); added Feb. 5, 1976, Pub. L. 94-210, § 801(a), 90 Stat. 126.

In the first sentence, the words "after issuance of a certificate under section 10901 of this title" are inserted for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10503, 10907, 11126, 11505, 11702, 11901 of this title.

§ 10903. Authorizing abandonment and discontinuance of railroad lines and rail transportation

(a) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may—

(1) abandon any part of its railroad lines; or

(2) discontinue the operation of all rail transportation over any part of its railroad lines;

only if the Commission finds that the present or future public convenience and necessity require or permit the abandonment or discontinuance. In making the finding, the Commission shall consider whether the abandonment or discontinuance will have a serious, adverse impact on rural and community development.

(b)(1) A proceeding to grant authority under subsection (a) of this section begins on application filed with the Commission. Subject to sections 10904-10906 of this title, if the Commission—

(A) finds public convenience and necessity, it shall—

(i) approve the application as filed; or

(ii) approve the application with modifications and require compliance with conditions that the Commission finds are required by public convenience and necessity; or

(B) fails to find public convenience and necessity, it shall deny the application.

(2) On approval, the Commission shall issue to the rail carrier a certificate describing the abandonment or discontinuance approved by the Commission. Each certificate shall also contain provisions to protect the interests of employees. The provisions shall be at least as beneficial to those interests as the provisions established under section 11347 of this title and section 565(b) of title 45.

(c) Except as provided in sections 10905 and 10906 of this title—

(1) if a certificate is issued without an investigation under section 10904(c) of this title, the abandonment or discontinuance may take effect under the certificate on the 30th day after the issuance of the certificate; or

(2) if a certificate is issued after an investigation under section 10904(c) of this title, the abandonment or discontinuance may take effect under the certificate on the 120th day after the issuance of the certificate.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1403.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10903(a) (less last sentence).	49:1a(1) (1st sentence less words related to certificates).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1a(1) (1st sentence), (4); added Feb. 5, 1976, Pub. L. 94-210, § 802, 90 Stat. 127, 128; Oct. 19, 1976, Pub. L. 94-555, § 218(b), 90 Stat. 2628.
10903(a) (last sentence).	49:1a(4)(a) (words following the period).	
10903(b).....	49:1a(1) (1st sentence, words related to certificates), (4) (less the words following the period in subsection (a) and less the last 2 sentences).	
10903(c).....	49:1a(4) (last 2 sentences).	

In subsection (a), the phrases "(hereafter in this section referred to as 'abandonment')" and "(hereafter referred to as 'discontinuance')" are omitted as unnecessary. The last sentence is restated for consistency.

Subsection (b) restates the source provisions for clarity and consistency. The first sentence and the words "Subject to sections 10904-10906 of this title" are inserted for clarity. The words "upon an order" are omitted as unnecessary. The words "terms and" are omitted as unnecessary. The word "deny" is substituted for "disapprove" for consistency. The citation "section 565(b)" is substituted for "section 565" as being more precise.

In subsection (c), the words "Except as otherwise provided in sections 10905 and 10906 of this title" are inserted for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10904, 10905, 10906, 10907, 11125, 11505, 11702, 11901 of this title.

§ 10904. Filing and procedure for applications to abandon or discontinue

(a)(1) An application for a certificate of abandonment or discontinuance under section 10903 of this title, and a notice of intent to abandon or discontinue, must be filed with the Interstate Commerce Commission at least 60 days before the day on which the abandonment or discontinuance is to become effective.

(2) When a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title files an application and notice of intent, the notice shall include—

(A) an accurate and understandable summary of the rail carrier's application and the reasons for the proposed abandonment or discontinuance; and

(B) a statement indicating that each interested person is entitled to recommend to the Commission that it approve, deny, or take other action concerning the application.

(3) The rail carrier shall—

(A) send by certified mail a copy of the notice of intent to the chief executive officer of each State that would be directly affected by the proposed abandonment or discontinuance;

(B) post a copy of the notice in each terminal and station on each portion of a railroad line proposed to be abandoned or over which all transportation is to be discontinued;

(C) publish a copy of the notice for 3 consecutive weeks in a newspaper of general circulation in each county in which each such portion is located;

(D) mail a copy of the notice, to the extent practicable, to all shippers that have made significant use (as designated by the Commission) of the railroad line during the 12 months preceding the filing of the application; and

(E) attach to the notice filed with the Commission an affidavit certifying the manner in which clauses (A)-(D) of this paragraph have been satisfied.

(b) The burden is on the person applying for the certificate to prove that the present or future public convenience and necessity require or permit the abandonment or discontinuance.

(c)(1) During the period between the date the application is filed through the day immediately before the date proposed in the application that the abandonment or discontinuance become effective, the Commission shall, on petition, and may, on its own initiative, begin an investigation to assist it in determining what disposition to make of the application. The order to conduct the investigation must be served on any affected rail carrier not later than the 5th day before the proposed effective date of the abandonment or discontinuance. An investigation may include public hearings at any location reasonably adjacent to the railroad line involved in the abandonment or discontinuance. The hearing may be held on the request of an interested party or on the initiative of the Commission.

(2) If an investigation is not conducted, the Commission shall act under section 10903(b) of this title by the last day of the period referred to in paragraph (1) of this subsection. If an investigation is to be conducted, the Commission shall postpone the proposed effective date of any part of the abandonment or discontinuance. The postponement shall be for a reasonable period of time necessary to complete the investigation.

(d)(1) In this subsection, "potentially subject to abandonment" has the meaning given the term in regulations of the Commission. The regulations may include standards that vary by region of the United States and by railroad or group of railroads.

(2) Each rail carrier shall maintain a complete diagram of the transportation system operated, directly or indirectly, by the carrier. The carrier shall submit to the Commission and publish amendments to its diagram that are necessary to maintain the accuracy of the diagram. The diagram shall—

(A) include a detailed description of each of its railroad lines potentially subject to abandonment; and

(B) identify each railroad line for which the carrier plans to file an application for a certificate under subsection (a) of this section.

(3) If an application for a certificate is opposed by—

(A) a shipper or other person that has made significant use (as determined by the Com-

mission) of the railroad line involved in the proposed abandonment or discontinuance during the 12-month period before the filing of the application for a certificate; or

(B) a State or political subdivision of a State in which any part of the railroad line is located;

the Commission may issue a certificate under section 10903 of this title only if the railroad line has been described and identified in the diagram or amendment to the diagram of the rail carrier that was submitted to the Commission at least 4 months before the date on which the application was filed.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1404.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10904(a)(1).	49:1a(1) (less 1st and last sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1a(1) (less 1st and last sentences), (2), (3), (5); added Feb. 5, 1976, Pub. L. 94–210, § 802, 90 Stat. 127, 128.
10904(a)(2).	49:1a(2)(b).	
10904(a)(3).	49:1a(2)(a).	
10904(b).....	49:1a(3) (last sentence).	
10904(c).....	49:1a(3) (less last sentence).	
10904(d).....	49:1a(5).	

In subsection (a)(1), the words in the second sentence of 49:1a(1) following "such abandonment or discontinuance" are omitted as unnecessary in view of section 10321(a) of the revised title giving the Commission general authority to carry out the subtitle and prescribe regulations.

In subsection (a)(2)(B), the word "deny" is substituted for "disapprove" for consistency.

In subsection (a)(3)(D), the words "in its discretion" are omitted as surplus.

In subsection (c)(1), the words before the first comma are substituted for "60-day period" for clarity and consistency with subsection (a)(1). The words "begin an investigation" are substituted for "cause an investigation to be conducted" in view of the authority of the Commission under section 10305 of the revised title to delegate authority to conduct proceedings. The words "be issued and" are omitted as unnecessary.

In subsection (c)(2), the words "shall act under section 10903(b) of this title" are substituted for "shall issue such a certificate, in accordance with this section" as being more precise.

In subsection (d)(2), the words "shall maintain a complete diagram" are substituted for "shall, within 180 days after the date of promulgation of regulations by the Commission pursuant to this section, prepare, submit to the Commission, and publish" since the deleted words are executed. The words "full and" are omitted as surplus. The words "in accordance with regulations of the Commission" are omitted as unnecessary in view of section 10321(a) of the revised title giving the Commission general authority to carry out the subtitle and prescribe regulations.

In subsection (d)(3), the words "application for a certificate is opposed" are substituted for "abandonment or discontinuance is opposed" for clarity and consistency. The words "in its discretion" are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1654, 10903, 10907, 11505, 11702, 11901 of this title.

§ 10905. Offers of financial assistance to avoid abandonment and discontinuance

(a) In this section—

(1) "avoidable cost" means all expenses that would be incurred by a rail carrier in providing transportation that would not be incurred if the railroad line over which the transportation was provided were abandoned or if the transportation were discontinued. Expenses include cash inflows foregone and cash outflows incurred by the rail carrier as a result of not abandoning or discontinuing the transportation. Cash inflows foregone and cash outflows incurred include—

(A) working capital and required capital expenditure;

(B) expenditures to eliminate deferred maintenance;

(C) the current cost of freight cars, locomotives, and other equipment; and

(D) the foregone tax benefits from not retiring properties from rail service and other effects of applicable Federal and State income taxes.

(2) "reasonable return" means—

(A) if a rail carrier is not reorganization, the cost of capital to the rail carrier, as determined by the Interstate Commerce Commission; and

(B) if a rail carrier is in reorganization, the mean cost of capital of rail carriers not in reorganization, as determined by the Commission.

(b) When the Commission finds under section 10903 of this title that the present or future public convenience and necessity require or permit abandonment or discontinuance, it shall publish the finding in the Federal Register. If, within 30 days after the publication, the Commission finds that—

(1) a financially responsible person (including a governmental authority) has offered financial assistance to enable the rail transportation to be continued over that part of the railroad line to be abandoned or over which all rail transportation is to be discontinued; and

(2) it is likely that the assistance would be equal to—

(A) the difference between the revenues attributable to that part of the railroad line and the avoidable cost of providing rail freight transportation on the line, plus a reasonable return on the value of the line; or

(B) the acquisition cost of that part of the railroad line;

the Commission shall postpone the issuance of a certificate authorizing abandonment or discontinuance for a reasonable time, not to exceed 6 months, to enable the person or governmental authority to enter into an agreement with the rail carrier to provide the assistance or to buy that part of the railroad line and to continue to provide rail transportation over the line. Thereafter, the Commission shall determine the extent to which the avoidable cost of providing rail transportation plus a reasonable return on the rail properties involved exceed

the revenues attributable to the railroad line or the rail transportation proposed to be abandoned or discontinued. On notice to the Commission that such an agreement has been executed, the Commission shall further postpone the issuance of the certificate as long as the agreement, or an extension or modification of the agreement, is in effect.

(c) The rail carrier shall provide promptly to a party considering offering financial assistance under subsection (b) of this section—

(1) its most recent reports on the physical condition of that part of the railroad line involved in the proposed abandonment or discontinuance; and

(2) traffic, revenue, and other data necessary to determine the amount of financial assistance that would be required to continue rail transportation over that part of the railroad line.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1405.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10905(a).....	49:1a(11).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1a(6), (7), (11); added Feb. 5, 1976, Pub. L. 94–210, §§ 802, 809(c), 90 Stat. 129, 130, 146.
10905(b).....	49:1a(6)(a), (7).	
10905(c).....	49:1a(6)(b).	

In the section, the word "transportation" is substituted in each place for "service" for consistency and as being more precise because the jurisdictional grant to the Interstate Commerce Commission under subchapter I of chapter 105 of the revised title is over transportation.

In subsection (a)(1), the words "in the case of discontinuance" and "in the case of abandonment" are omitted as unnecessary.

In subsection (a)(2), the words "rail carrier" are substituted for "railroad" as being more appropriate and for consistency.

In subsections (b) and (c), the phrase "part of the railroad line" is used as being more precise.

In the introductory matter of subsection (b), before clause (1), the words "present or future public convenience and necessity require or permit" are substituted for "public convenience and necessity permit" for consistency with section 10903(a) of the revised title.

In subsection (b)(1), the phrase "(in the form of a rail service continuation payment)" is omitted as unnecessary.

In subsection (b)(2), the words "be equal to" are substituted for "cover" for clarity. The word "freight" is omitted for consistency with sections 10903 and 10904 and the remainder of section 10905 of the revised title.

In subsection (b), after clause (2), the words "binding" and "an assistance or acquisition and operating" are omitted as unnecessary. The words "governmental authority" is substituted for "governmental entity" for consistency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10362, 10903, 10907, 11505, 11702, 11901 of this title.

§ 10906. Offering abandoned rail properties for sale for public purposes

When the Interstate Commerce Commission finds under section 10903 of this title that the present or future public convenience and necessity require or permit abandonment or discontinuance, the Commission shall find further whether the rail properties that are involved in the proposed abandonment or discontinuance are suitable for use for public purposes, including highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the Commission finds that the rail properties proposed to be abandoned are suitable for public purposes, the properties may be sold, leased, exchanged, or otherwise disposed of only under conditions provided in the order of the Commission. The conditions may include a prohibition on any such disposal for a period of not more than 180 days after the effective date of the order, unless the properties have first been offered, on reasonable terms, for sale for public purposes.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1406.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10906.....	49:1a(10).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1a(10); added Feb. 5, 1976, Pub. L. 94–210, § 809(c), 90 Stat. 146.

The words "require or" are inserted for consistency with section 10903(a) of the revised title. The words "the rail properties that are involved in the proposed abandonment or discontinuance" are substituted for "such properties" for clarity. The words "roads or" are omitted as unnecessary because roads are included in the subtitle definition of "highways". The word "other" before "public purposes" is omitted as unnecessary. The words "terms and" are omitted as unnecessary.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10903, 10907, 11505, 11702, 11901 of this title.

§ 10907. Exceptions

(a) Notwithstanding sections 10901 and 10902 and subchapter III of chapter 113 of this title, and without the approval of the Interstate Commerce Commission, a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may enter into arrangements for the joint ownership or joint use of spur, industrial, team, switching, or side tracks.

(b) The Commission does not have authority under sections 10901–10906 of this title over—

(1) the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks if the tracks are located, or intended to be located, entirely in one State; or

(2) a street, suburban, or interurban electric railway that is not operated as part of a general system of rail transportation.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1407.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10907(a).....	49:1(18)(d) (1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(18)(d); added Feb. 5, 1976, Pub. L. 94-210, § 801(a), 90 Stat. 126.
10907(b).....	49:1(18)(d) (less 1st sentence).	
	49:1a(1) (last sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1a(1) (last sentence); added Feb. 5, 1976, Pub. L. 94-210, § 802, 90 Stat. 127; Oct. 19, 1976, Pub. L. 94-555, § 218(a), 90 Stat. 2628.

In subsection (a), the words "contracts, agreements, or other" are omitted as surplus. The last sentence of 49:1a(1) is omitted because of article VI of the Constitution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10503, 11126, 11505, 11702, 11901 of this title.

§ 10908. Discontinuing or changing interstate train or ferry transportation subject to State law

(a) When a discontinuance or change in any part of the transportation of a train or ferry operating between a place in a State and a place in another State—

(1) is proposed by a carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title; and

(2) is subject to the law of a State, or to a regulation or order of, or proceeding pending before, a court or other authority of a State;

the carrier, notwithstanding that law, regulation, order, or proceeding, may discontinue or change the transportation—

(A) if it files a notice of the proposed discontinuance or change with the Commission at least 30 days before the discontinuance or change is intended to be effective and carries out the discontinuance or change under that notice;

(B) if it mails a copy of the notice to the chief executive officer of each State in which the train or ferry is operated and posts a copy of the notice at each station, depot, or other facility served by the train or ferry; and

(C) except as otherwise provided by the Commission under this section.

(b) On petition or on its own initiative, the Commission may conduct a proceeding on the proposed discontinuance or change if it begins the proceeding between the date the carrier files the notice under subsection (a) of this section and the date on which the discontinuance or change is intended to be effective. After the proceeding begins, the Commission may order the carrier proposing the discontinuance or change to continue any part of the transportation pending completion of the proceeding and the decision of the Commission if the Commission serves a copy of its order on the carrier at least 10 days before the date on which the carrier intended the discontinuance or change to be effective. However, the Commission may not order the transportation continued for more than 4 months after the date on which the carrier intended the discontinuance or change to be effective.

(c) If, after a proceeding completed either before or after the proposed discontinuance or change has become effective, the Commission finds that any part of the transportation is required or permitted by present or future public convenience and necessity and will not unreasonably burden interstate or foreign commerce, the Commission may order the carrier to continue or restore that transportation for not to exceed one year from the date of the Commission order. On expiration of the Commission order, the jurisdiction of each State involved in the discontinuance or change is no longer superseded except to the extent this section is again invoked.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1407.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10908(a).....	49:13a(1) (1st and 2d sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 13a(1); added Aug. 12, 1958, Pub. L. 85-625, § 5, 72 Stat. 571.
10908(b).....	49:13a(1) (3d and 4th sentences).	
10908(c).....	49:13a(1) (less sentences 1-4).	

In the section, the word "transportation" is substituted in each place for "operation or service" for consistency and as being more precise because the jurisdictional grant to the Interstate Commerce Commission under subchapter I of chapter 105 of the revised title is over transportation.

In subsection (a), the word "place" is substituted for "point" each time for consistency with other provisions of the subtitle. The words "or in the District of Columbia, or from a point in the District of Columbia to a point in any State" are omitted in view of the definition of "State" in section 10102 of the revised title. The words "but shall not be required to" are omitted as surplus. The word "law" is substituted for "any provision of the constitution or statutes" to eliminate redundancy. The words "or other authority" are substituted for "administrative or regulatory agency" for consistency and to eliminate redundancy. The words "chief executive officer" are substituted for "Governor" as more appropriate in view of the definition of "State" that includes the District of Columbia.

In subsection (b), the words "between the date the carrier files the notice under subsection (a) of this section and the date on which the discontinuance or change is intended to be effective" are inserted for clarity and for consistency with subsection (a)(A) of this section. The word "petition" is substituted for "complaint" as being more appropriate. The words "without complaint" are omitted as surplus.

In subsection (c), the words "any part of the" are inserted before "transportation is required", and the words "in whole or in part" are omitted later in the sentence, for clarity. The words "or permitted" and "present or future" are inserted for consistency with other provisions of subchapter I of chapter 109 of the revised title. The word "unreasonably" is substituted for "unduly" for consistency. See the revision note to section 10101 of the revised title. The words "the carrier to continue or restore" are substituted for "the continuance or restoration" to clarify who has the obligation to continue or restore is placed. The next-to-last

sentence, related to the continued effectiveness of State action if notice is not filed, is omitted as surplus in view of subsection (a)(A) of this section. In the last sentence of the revised subsection, the words "except to the extent this section is again invoked" are substituted for "unless the procedure provided by this paragraph shall again be invoked by the carrier or carriers" as being more precise.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 45 sections 521, 561, 564 of this title.

§ 10909. Discontinuing or changing train or ferry transportation in one State

(a) When a carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title has proposed a discontinuance or change of any part of the transportation of a train or ferry operated by it entirely in one State and—

(1) the law of the State prohibits the discontinuance or change;

(2) the carrier has requested the State authority having jurisdiction over the discontinuance or change for permission to discontinue or change the transportation and the request has been denied; or

(3) the State authority has not acted finally by the 120th day after the carrier made the request;

the carrier may petition the Commission for permission to discontinue or change the transportation.

(b) When a petition is filed under subsection (a) of this section, the Commission shall notify the chief executive officer of the State in which the train or ferry is operated concerning the petition. Before acting on the petition, the Commission shall give interested parties a full hearing. If such a hearing is requested, the Commission shall give all interested parties at least 30 days notice of the hearing and shall hold the hearing in the State in which the train or ferry is operated. The Commission may cooperate with, and use the services, records, and facilities of, the State in carrying out this section.

(c) The Commission may grant permission to the carrier to discontinue or change any part of the transportation if the Commission finds that—

(1) the present or future public convenience and necessity require or permit the discontinuance or change to be authorized by the Commission; and

(2) continuing the transportation, without the proposed discontinuance or change, will constitute an unreasonable burden on the interstate operations of the carrier or on interstate commerce.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1408.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10909(a).....	49:13a(2) (1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 13a(2); added Aug. 12, 1958, Pub. L. 85-625, § 5, 72 Stat. 572.
10909(b), (c).	49:13a(2) (less 1st sentence).	

In the section, the word "transportation" is substituted each place for "operation or service" for consistency and as being more precise because the jurisdictional grant to the Interstate Commerce Commission under subchapter I of chapter 105 of the revised title is over transportation.

In subsection (a), the words "within the boundaries of a" and "duly" are omitted as surplus. The word "law" is substituted for "constitution or statutes" to eliminate redundancy. The words "requested" and "request" are substituted for "application or petition . . . filed" and "such an application or petition", respectively, to provide one word to cover all kinds of forms that may be filed with a governmental authority and to avoid using the word "petition" in 2 different ways in the subsection. The word "permission" is substituted for "authority" to avoid confusion with the term "State authority".

In subsection (b), the 2d sentence is restated for clarity to require the Commission to provide 2 different notices and for precision to cover the situation in which no hearing is requested. The words "chief executive officer" are substituted for "Governor" for consistency with other provisions of the subtitle.

In subsection (c), the word "permission" is substituted for "authority" to avoid confusion with the term "State authority". The words "require or" are inserted for consistency with other provisions of subchapter I of chapter 109 of the revised title. The word "unreasonable" is substituted for "unjust and undue" for consistency and to eliminate redundancy. See the revision note to section 10101 of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 45 sections 521, 564.

SUBCHAPTER II—OTHER CARRIERS AND MOTOR CARRIER BROKERS

§ 10921. Requirement for certificate, permit, or license

Except as provided in this subchapter or another law, a person may provide transportation or service subject to the jurisdiction of the Interstate Commerce Commission under subchapter II, III, or IV of chapter 105 of this title or be a broker for transportation subject to the jurisdiction of the Commission under subchapter II of that chapter, only if the person holds the appropriate certificate, permit, or license issued under this subchapter authorizing the transportation or service.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1409.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10921.....	49:303(c) (words before "nor", less words between 6th and 7th commas).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 203(c) (words before "nor", less words between 6th and 7th commas); added Aug. 22, 1957, Pub. L. 85-163, § 1(2), 71 Stat. 411.
	49:306(a)(1) (words before proviso), 309(a)(1) (words before 1st proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §§ 206(a)(1) (words before proviso), 209(a)(1) (words before 1st proviso); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 551, 552; June 29, 1938, ch. 811, §§ 8, 9, 52 Stat. 1238.
	49:311(a) (words before 1st proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 211(a) (words before 1st proviso); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 554.
	49:909(a) (words before 1st proviso), 909(f) (words before 1st proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 309(a) (words before 1st proviso), (f) (words before 1st proviso); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 941.
	49:1010(a)(1) (words before semicolon).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 410(a)(1) (words before semicolon); added May 16, 1942, ch. 318, § 1, 56 Stat. 291; July 12, 1960, Pub. L. 86-615, § 6, 74 Stat. 385.

The section consolidates and restates the source provisions for clarity. The words "may provide transportation or service subject to the jurisdiction of the Interstate Commerce Commission under subchapter II, III, or IV of chapter 105 of this title" are substituted for "section 302(c) of this title, subsection (b) of this section, in the exception in subsection (a)(14) of this section" in 49:303(c), for "for-hire transportation business by motor vehicle, in interstate or foreign commerce" in 49:303(c), and for "transportation subject to this chapter" in 49:909(a), 909(f), and 1010(a)(1), for clarity and to conform to the style of the revised subtitle. In 49:303(c) and 306(a)(1), the words "on any public highway or within any reservation under the exclusive jurisdiction of the United States" are omitted because this requirement is included in section 10521 of the revised title. The words "for compensation sell or offer for sale transportation . . . or shall make any contract, agreement, or arrangement to provide, procure, furnish, or arrange for such transportation or shall hold himself or itself out by advertisement, solicitation, or otherwise as one who sells, provides, procures, contracts, or arranges" in 49:311(a) are omitted as surplus in view of the definition of "broker" in section 10102 of the revised title that includes the omitted words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11708, 11901 of this title.

§ 10922. Certificates of motor and water common carriers

(a) Except as provided in this section and section 10930(a) of this title, the Interstate Commerce Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II or III of chapter 105 of this title as a motor common carrier or water common carrier, respectively, if the Commission finds that—

(1) the person is fit, willing, and able—

(A) to provide the transportation to be authorized by the certificate; and

(B) to comply with this subtitle and regulations of the Commission; and

(2) the transportation to be provided under the certificate is or will be required by the present or future public convenience and necessity.

(b) A person must file an application with the Commission for a certificate to provide transportation as a motor common carrier or water common carrier. The Commission may approve any part of the application or deny the application. The application must—

(1) be under oath;

(2) contain information required by Commission regulations; and

(3) be served on persons designated by the Commission.

(c)(1) Subject to section 10927(a) of this title, each certificate issued to a person to provide transportation as a motor common carrier shall specify—

(A) the transportation to be provided by the carrier;

(B) any of the regular routes over which, any of the places between which, and off-route places at which, the carrier may provide transportation; and

(C) if transportation is not over regular routes or between specified places, the area in which the carrier may provide transportation.

(2) Under regulations of the Commission, a motor common carrier may occasionally deviate from the regular routes, or the places specified in the certificate, or both.

(3) If a motor common carrier transports passengers, the Commission may authorize transportation of the passengers only over a regular route and between specified places, except to the extent the carrier is authorized to provide special or charter transportation.

(4) A certificate of a motor common carrier to transport passengers may include authority to transport—

(A) newspapers, baggage of passengers, express, or mail in the same motor vehicle with the passengers; and

(B) baggage of passengers in a separate motor vehicle.

(d) Each certificate issued to a person to provide transportation as a water common carrier shall specify each route over which, and each port between which, the carrier may provide transportation.

(e)(1) A motor common carrier may provide transportation under a certificate only if the carrier complies with conditions the Commission finds are required by public convenience and necessity, including conditions—

(A) on extending routes of the carrier; and

(B) to carry out requirements established by the Commission under this subtitle.

(2) The Commission may prescribe necessary conditions under which a water common carrier provides transportation, including conditions on extending routes of the carrier.

(3) The Commission may prescribe conditions when the certificate is issued and at any time thereafter. The Commission may not prescribe a condition preventing—

(A) a motor common carrier or water common carrier from adding to its equipment and facilities or its transportation within the scope of the certificate to satisfy business development and public demand; or

(B) a water common carrier, if the carrier has authority to provide transportation over completed parts of a waterway project authorized under law, from extending its transportation over the uncompleted parts of the project when opened for navigation to satisfy business development and public demand.

(f) A certificate issued under this section does not confer a proprietary or exclusive right to use the public highways or public waterways.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1409.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10922(a).....	49:307(a) (words before proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 207; added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 551.
	49:909(c).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 309(b)–(e); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 942.
10922(b).....	49:306(b).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 206(b); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 551.
	49:909(b).	
10922(c)(1).	49:308(a) (words before semicolon).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 208(a), (b), (d); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 552.
10922(c)(2).	49:308(b).	
10922(c)(3).	49:307(a) (proviso).	
10922(c)(4).	49:308(d).	
10922(d).....	49:909(d) (words through 3d comma).	
10922(e)(1).	49:308(a) (words between 2d comma after semicolon and proviso).	
10922(e)(2).	49:909(d) (words between 5th comma and proviso).	
10922(e)(3).	49:308(a) (words between semicolon and words after 2d comma after semicolon), (proviso).	
	49:909(d) (words between 3d and 5th commas), (proviso).	
10922(f).....	49:307(b).	
	49:909(e).	

The word "transportation" is substituted each place for "service" and "operations" for consistency and as being more precise because the jurisdictional grant to the Interstate Commerce Commission under subchapters II and III of chapter 105 of the revised title is jurisdiction over transportation.

In the introductory matter of subsection (a), before clause (1), the words "authorizing that person to provide transportation" are inserted for clarity. The words "qualified applicant therefor" are omitted as unnecessary in view of the provisions of the section specifying the necessary qualifications of motor and water common carriers.

In subsection (a)(1), the word "properly" is omitted as surplus. The words "to be authorized by the certificate" are substituted for "to perform the service proposed" for clarity in view of the authority of the Commission to approve only part of an application. The words "requirements, rules" are omitted as being included in "regulations" and for consistency with the other provisions of the revised title.

In subsection (b), the words "shall be in such form and" and "by regulations" are omitted as unnecessary in view of section 10321(a) of the revised title giving the Commission general authority to carry out the subtitle. The last sentence of 49:306(b) is omitted as executed.

In subsection (c)(1), (2), and (3), the word "places" is substituted for "fixed termini" for consistency.

In the introductory language of subsection (c)(1), before clause (A), the words "Subject to section 10927(a) of this title" are inserted for clarity.

In subsection (c)(2), the words "such general or special rules and" are omitted for consistency and as being unnecessary.

In subsection (c)(4)(A) and (B), the word "motor" is inserted before "vehicle" each place for clarity and consistency.

In subsection (e)(1), (2), and (3), the words "reasonable terms" and "limitations" are omitted as unnecessary.

In subsection (e)(1)(B), the words "under this subtitle" are substituted for "under section 304(a)(1) and (6)" in view of the general authority granted to the Commission under that section and as a result of the codification of the subtitle.

In subsection (e)(2), the words "public convenience and necessity" are omitted in view of other language in 49:909(d) giving the Commission the authority to impose conditions for any necessary purpose.

In subsection (e)(3)(A), the words "or its transportation within the scope" are substituted for "over the routes, between the termini, or within the territory specified" in 49:308(a) (proviso) to eliminate redundancy and for consistency with the words of 49:909(d) (proviso).

In subsection (e)(3)(B), the words "authorized under law" are substituted for "by Congress" in 49:909(d) as being more precise.

In subsection (f), the word "exclusive" is substituted for "property" in 49:307(b) as being more precise and for consistency with 49:909(e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10925, 10926, 10927, 10931, 11304, 11506, 11708 of this title.

§ 10923. Permits of motor and water contract carriers and freight forwarders

(a) Except as provided in this section and section 10930 of this title, the Interstate Commerce Commission shall issue a permit to a person authorizing the person to provide transportation subject to the jurisdiction of the Commission under subchapter II or III of chapter 105 of this title as a motor contract carrier or water contract carrier, respectively, or to provide service subject to that jurisdiction under subchapter IV of chapter 105 as a freight forwarder, if the Commission finds that—

(1) the person is fit, willing, and able—

(A) to provide the transportation or service to be authorized by the permit; and

(B) to comply with this subtitle and regulations of the Commission; and

(2) the transportation or service to be provided under the permit is or will be consistent with the public interest and the transportation policy of section 10101 of this title.

(b)(1) A person must file an application with the Commission for a permit to provide transportation as a contract carrier or to provide service as a freight forwarder. The Commission may approve any part of the application or deny the application. The application must—

(A) be under oath;

(B) contain information required by Commission regulations; and

(C) be served on persons designated by the Commission.

(2) In deciding whether to approve the application of a person for a permit as a motor contract carrier, the Commission shall consider—

(A) the number of shippers to be served by the carrier;

(B) the nature of the transportation proposed to be provided;

(C) the effect that granting the permit would have on the transportation of carriers protesting the granting of the permit; and

(D) the effect that denying the permit would have on the person applying for the permit, its shippers, or both, and the changing character of the requirements of those shippers.

(3) The Commission may not deny any part of an application for a freight forwarder permit filed by a corporation controlled by, or under common control with—

(A) a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title, because of the relationship between the corporation and that carrier; and

(B) a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 only because the service to be provided by the corporation will compete with service provided by another freight forwarder subject to subchapter IV of that chapter.

(c) Each permit issued to a person—

(1) to provide transportation as a motor contract carrier is subject to section 10927(a) of this title and shall specify the transportation to be provided by the carrier;

(2) to provide transportation as a water contract carrier shall specify the transportation to be provided by the carrier; and

(3) to provide service as a freight forwarder shall specify the nature or general description about which the service is to be provided, the area in which, and the areas between which, the service may be provided by the freight forwarder.

(d)(1) The Commission may prescribe necessary conditions under which a contract carrier or freight forwarder provides transportation or service. The Commission may prescribe the conditions when the permit is issued and at any time thereafter.

(2) The permit for a motor contract carrier shall specify necessary conditions, including each person or number or class of persons for which the carrier may provide transportation—

(A) to ensure that the carrier provides transportation as a motor contract carrier and within the scope of the permit; and

(B) to carry out requirements established by the Commission under this subtitle.

(3) Subject to the permit and its conditions, a motor contract carrier may substitute or add to its equipment and facilities as requests for its transportation develop. The Commission may not prescribe a condition preventing—

(A) a water contract carrier from substituting or adding contracts within the scope of the permit to satisfy the requirements of business development and public demand; and

(B) a water contract carrier or freight forwarder from adding to its equipment and facilities, and transportation or service, as the case may be, within the scope of the permit to satisfy the requirements of business development and public demand.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1410.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10923(a), (b).	49:309(b) (1st–3d sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 209(b) (less last proviso); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 553; Aug. 22, 1957, Pub. L. 85–163, § 2, 71 Stat. 411.
	49:909(g) (1st and 2d sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 309(g); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 943.
	49:1010(b), (c) (less 2d sentence, words before semicolon), (d).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 410(b), (c) (less 2d sentence, words before semicolon), (d), (e); added May 16, 1942, ch. 318, § 1, 56 Stat. 291, 293; Aug. 28, 1957, Pub. L. 85–176, § 1, 71 Stat. 452.
10923(c), (d).	49:309(b) (less 1st–3d sentences and last proviso). 49:909(g) (less 1st and 2d sentences). 49:1010(e).	

The words "provide transportation" are substituted for "perform the service" in 49:309(b) and 49:909(g), and the word "transportation" is substituted for "business" in 49:309(b) and for "operations" in 49:909(g), for consistency and as being more precise because the jurisdictional grant to the Interstate Commerce Commission under subchapters II and III of chapter 105 of the revised title is jurisdiction over transportation.

In the introductory matter of subsection (a), before clause (1), the words "authorizing the person to provide" are inserted for clarity. The words "qualified applicant therefor" in 49:309(b) and 49:1010(c) are omitted as unnecessary in view of the provisions of the section specifying the necessary qualifications of motor contract carriers and freight forwarders. The words "if it appears from the applications or from any hearing held thereon" in 49:309(b) are omitted for consistency and as unnecessary in view of the provisions of the subtitle related to Commission procedures.

In subsection (a)(1), the word "fit" is substituted for "ready" in 49:1010(c) as being more precise and for consistency. The word "properly" is omitted as surplus. The words "to be authorized by the permit" are substituted for "to perform the service proposed" in 49:909(g) and 49:1010(c) for clarity in view of the authority of the Commission to approve only part of an application. The words "requirements, rules" in 49:309(b) and 49:909(g) are omitted as being included in "regulations" and for consistency. The words "comply with this subtitle and regulations of the Commission" are made applicable to 49:1010(c) for consistency and as being necessarily implied in view of section 10321(a) of the revised title giving the Commission general authority to carry out the subtitle.

In subsection (a)(2), the words "is or" are inserted in 49:309(b) and 49:909(g) for consistency.

In subsection (b), the words "shall be in such form and" are omitted as unnecessary in view of section 10321(a) of the revised title giving the Commission general authority to carry out the subtitle.

In subsections (c) and (d), the word "provide" is substituted for "perform" in 49:1010(e) for consistency.

In subsection (c)(1), the words "subject to section 10927(a) of this title" are inserted for clarity.

In subsection (c)(2), the words "consistent with the character of the holder as a contract carrier by water" in 49:909(g) are omitted as unnecessary and for consistency.

In subsection (c)(3), the words "area" and "areas" are substituted for "territory" and "territories", respectively, in 49:1010(e) for consistency. The words "under authority of such permit" in 49:1010(e) are omitted as unnecessary.

In subsection (d), the words "reasonable terms" and "limitations" are omitted as unnecessary. The words "to the exercise of the privileges granted" in 49:1010(e) are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10925, 10926, 10927, 11304, 11506, 11708 of this title.

§ 10924. Licenses of motor carrier brokers

(a) The Interstate Commerce Commission shall issue, subject to section 10927(b) of this title, a license to a person authorizing the person to be a broker for transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, if the Commission finds that—

(1) the person is fit, willing, and able—

(A) to be a broker for transportation to be authorized by the license; and

(B) to comply with this subtitle and regulations of the Commission; and

(2) the transportation for which the person is to be a broker will be consistent with the public interest and the transportation policy of section 10101 of this title.

(b)(1) The broker may provide the transportation itself only if the broker also has been issued a certificate or permit to provide the transportation under this subchapter. A broker may use only the transportation of a motor carrier holding a certificate or permit issued under this subchapter.

(2) This subsection does not apply to a motor carrier having a certificate or permit issued under this subchapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier, with other motor carriers holding certificates or permits, or with rail, express, or water common carriers.

(c) A person must file an application with the Commission for a license to be a broker for motor carrier transportation. The Commission may approve the application or any part of it, or deny the application.

(d) Commission regulations shall provide for the protection of travelers and shippers by motor vehicle, to be observed by brokers.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1412.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10924(a), (c).	49:311(b).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 211(a) (words after 1st colon), (b), (c) (words before 2d comma); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 554; Sept. 18, 1940, ch. 722, § 16, 54 Stat. 919.
10924(b).....	49:311(a) (words after 1st colon).	
10924(d).....	49:311(c) (words before 2d comma).	

The words "requirements, rules" are omitted as being included in regulations and for consistency. The words "reasonable rules and regulations" are omitted in view of section 10321(a) of the revised title giving the Interstate Commerce Commission general authority to carry out the subtitle.

In subsection (a), the last sentence of 49:311(b) is omitted as executed. The words "subject to section 10927(b) of this title" are inserted for clarity. The words "qualified applicant therefor" are omitted as unnecessary in view of the provisions of the section specifying the necessary qualifications of brokers.

In subsection (a)(1), the word "properly" is omitted as surplus. The words "to be authorized by the license" are substituted for "to perform the service proposed" for clarity in view of the authority of the Commission to approve only part of an application.

In subsection (b)(2), the word "motor" is inserted before "carrier" the first time it appears for clarity. The words "bona fide" are omitted as unnecessary.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10925, 10927, 11708 of this title.

§ 10925. Effective periods of certificates, permits, and licenses

(a) Each certificate, permit, and license issued under section 10922, 10923, or 10924 of this title is effective from the date specified in it and remains in effect except as otherwise provided in this section.

(b) On application of the holder of a certificate, permit, or license, the Interstate Commerce Commission may amend or revoke any part of the certificate, permit, or license. On complaint or on its own initiative and after notice and an opportunity for a proceeding, the Commission may suspend, amend, or revoke any part of a certificate, permit, or license—

(1) if a motor carrier, broker, or freight forwarder, for willful failure to comply with this subtitle, a regulation or order of the Commission, or a condition of its certificate, permit, or license; and

(2) if a water carrier, for willful failure to comply with section 10701(a) or 11101(a) of this title, a regulation or order of the Com-

mission, or a condition of its certificate or permit.

(c)(1) Except on application of the holder, the Commission may revoke a certificate or permit of a motor carrier or freight forwarder, or a license of a broker, only after the Commission has issued an order to the holder under section 11701 of this title requiring compliance with this subtitle, a regulation of the Commission, or a condition of the certificate, permit, or license of the holder, and the holder willfully does not comply with the order.

(2) Except on application of the holder, the Commission may suspend, amend, or revoke a certificate or permit of a water carrier only after the Commission has issued an order to the holder under section 11701 of this title requiring compliance with section 10701(a) or 11101(a) of this title, and the holder willfully does not comply with the order.

(3) The Commission may act under paragraph (1) or (2) of this subsection only after giving the holder of the certificate, permit, or license at least 30 days to comply with the order.

(d)(1) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Commission may suspend a certificate of a motor carrier, a permit of a freight forwarder, or a license of a broker—

(A) if a motor carrier or broker, for failure to comply with section 10701, 10702, 10761, 10762, 10924(d), or 10927(b) or (d) of this title, or an order or regulation of the Commission prescribed under those sections; and

(B) if a freight forwarder, for failure to comply with section 10762 or 10927(c) or (d) of this title, or an order or regulation of the Commission prescribed under those sections.

(2) The Commission may suspend the certificate, permit, or license only after it gives notice of the suspension to the holder at least 15 days before the date the suspension is to begin. The suspension remains in effect until the holder complies with those applicable sections.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1412.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10925(a).....	49:312(a) (1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 212(a); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 555; restated June 29, 1938, ch. 811, § 11, 52 Stat. 1238; Sept. 18, 1940, ch. 722, § 21(c), 54 Stat. 924; Oct. 15, 1966, Pub. L. 89-670, § 8(d), 80 Stat. 943.
	49:912a(1).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 312a; added Sept. 6, 1965, Pub. L. 89-170, § 8, 79 Stat. 652.
	49:1010(f) (1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 410(f); added May 16, 1942, ch. 318, § 1, 56 Stat. 292.
10925(b).....	49:312(a) (2d sentence less provisos).	
	49:912a(2) (less proviso).	
	49:1010(f) (2d sentence less provisos).	
10925(c).....	49:312(a) (2d sentence 1st proviso).	
	49:912a(2) (proviso).	
	49:1010(f) (2d sentence 1st proviso).	
10925(d).....	49:312(a) (2d sentence 2d proviso).	
	49:1010(f) (2d sentence 2d proviso).	

In subsection (a), the words "except as otherwise provided in this section" are substituted for "until suspended or terminated as herein provided" in 49:312(a) and 49:1010(f) and for "until suspended or revoked as provided in this section" in 49:912a, for clarity.

In subsections (b) and (c), the word "amend" is substituted for "changed" in 49:312a(a) and 49:912a and for "modified" in 49:1010(f) for consistency.

In subsection (b), the words "in the discretion of the Commission" are omitted as surplus. The words "after notice and an opportunity for a proceeding" are substituted for "after notice and hearing" in 49:312(a) and 49:1010(f), and for "after reasonable notice and opportunity for hearing" in 49:912a, for clarity and consistency.

In subsections (b)(1) and (c)(1), the words "term", "lawful", "rule", and "or limitation" in 49:312(a) and 49:1010(f) are omitted for consistency and to eliminate surplus language.

In subsections (b)(2) and (c)(2), the words "section 10701(a) or 11101(a) of this title" are substituted for "section 905(a) of this title with respect to performing, providing, and furnishing transportation upon reasonable request therefor" in each place in 49:1010(f) as the result of the codification of 49:905(a) to those sections and to eliminate surplus language.

In subsection (d), the words "Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5" are substituted for "without hearing or other proceedings" as being more precise. The words "lawful" and "rule or" are omitted for consistency and to eliminate surplus language.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10931, 10932 of this title.

§ 10926. Transfers of certificates and permits

Except as provided in this subtitle, a certificate or permit issued under section 10922 or 10923 of this title—

(1) if a certificate or permit of a motor carrier, may be transferred under regulations of the Interstate Commerce Commission;

(2) if a certificate or permit of a water carrier, may be transferred under regulations prescribed by the Commission to protect the public interest and to ensure compliance with this subtitle; and

(3) if a permit of a freight forwarder, may be transferred under regulations prescribed by the Commission to ensure compliance with this subtitle, if the Commission finds that the person to whom the permit is to be transferred satisfies section 10923(a) and (b) of this title. However, if the proposed transfer would affect the interests of employees of a freight forwarder, the Commission shall require a fair and equitable arrangement to pro-

tect the interests of those employees before the transfer is effective.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1413.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10926(1).....	49:312(b).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 212(b); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 555; Sept. 18, 1940, ch. 722, § 21(d), 54 Stat. 924.
10926(2).....	49:912.	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 312; added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 944.
10926(3).....	49:1010(g).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 410(g); added May 16, 1942, ch. 318, § 1, 56 Stat. 292.

In the introductory matter before clause (1), the words "in this subtitle" are substituted for "in section 5 of this title" for consistency and as being more precise in view of other sections of the subtitle limiting the authority to transfer.

In clauses (1) and (3), the words "rules and" are omitted as surplus.

In clause (3), the words "or any right to engage in service subject to this chapter pending disposition of any application made to the Commission for a permit" are omitted as executed in view of 49:1010(a)(1) that provided for freight forwarder operations for a limited period of time after enactment of 49:1010 on May 16, 1942, and that period has expired. The words "and any right to a permit when issued" are omitted as unnecessary.

§ 10927. Security of motor carriers, brokers, and freight forwarders

(a)(1) The Interstate Commerce Commission may issue a certificate or permit to a motor carrier under section 10922 or 10923 of this title only if the carrier files with the Commission a bond, insurance policy, or other type of security approved by the Commission. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the carrier for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles under the certificate or permit, or for loss or damage to property (except property referred to in paragraph (3) of this subsection), or both. A certificate or permit remains in effect only as long as the carrier satisfies the requirements of this paragraph.

(2) A motor carrier operating in the United States when providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country shall comply with the requirements of sections 10329 and 10330 that apply to a motor carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title. To protect the public, the Commission may require any such motor carrier to file the type of security that a motor carrier is required to file under paragraph (1) of this subsection.

(3) The Commission may require a motor common carrier providing transportation under a certificate to file with the Commission a type of security sufficient to pay a shipper or consignee for damage to property of the shipper or consignee placed in the possession of the motor common carrier as the result of transportation provided under this subtitle. A carrier required by law to pay a shipper or consignee for loss, damage, or default for which a connecting motor common carrier is responsible is subrogated, to the extent of the amount paid, to the rights of the shipper or consignee under any such security.

(b) The Commission may issue a broker's license to a person under section 10924 of this title only if the person files with the Commission a bond, insurance policy, or other type of security approved by the Commission to ensure that the transportation for which a broker arranges is provided. The license remains in effect only as long as the broker complies with this subsection.

(c)(1) The Commission may require a freight forwarder providing service under a permit issued under section 10923 of this title to file with the Commission a bond, insurance policy, or other type of security approved by the Commission. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the freight forwarder for bodily injury to, or death of, an individual, or loss of, or damage to, property (other than property referred to in paragraph (2) of this subsection), resulting from the negligent operation, maintenance, or use of motor vehicles by or under the direction and control of the freight forwarder when providing transfer, collection, or delivery service under this subtitle.

(2) The Commission may require a freight forwarder providing service under a permit to file with the Commission a bond, insurance policy, or other type of security approved by the Commission sufficient to pay, not more than the amount of the security, for loss of, or damage to, property for which the freight forwarder provides service under this subtitle.

(d) The Commission may determine the type and amount of security filed with it under this section.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1413.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10927(a)(1).	49:315 (1st sentence related to filing security).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 215; added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 557; July 22, 1954, ch. 563, § 2, 68 Stat. 526.
10927(a)(2).	49:303(a)(11) (last sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 203(a)(11) (last sentence); added July 22, 1954, ch. 563, § 1, 68 Stat. 526.
	49:315 (last sentence).	
10927(a)(3).	49:315 (2d and 3d sentences related to filing security).	
10927(b).....	49:311(c) (words after 2d comma).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 211(c) (words after 2d comma); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 554.

HISTORICAL AND REVISION NOTES—Continued

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10927(c)(1).	49:1003(d) (related to filing security).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 403(c), (d); added May 16, 1942, ch. 318, § 1, 56 Stat. 285.
10927(c)(2).	49:1003(c) (related to filing security).	
10927(d).....	49:315 (related to kind and amount of security).	
	49:1003(c), (d) (related to kind and amount of security).	

In subsection (a), the word "reasonable" is omitted as unnecessary. The words "rules and regulations as the Commission shall prescribe", "rules and regulations as it shall prescribe" and "regulations" are omitted in view of section 10321(a) of the revised title giving the Interstate Commerce Commission general authority to carry out the subtitle.

In subsection (a)(1), the word "each" is inserted for clarity. The phrase "(except property referred to in paragraph (3) of this subsection)" is inserted for clarity and consistency.

In subsection (a)(2), the words "and these provisions of section 304 of this title which relate to qualifications and maximum hours of service of employees and safety of operation and equipment" in the last sentence of 49:303(a)(11) are omitted because, under section 6(e)(6)(C) of Public Law 89-670, those provisions were transferred to the Secretary of Transportation. The balance of that sentence is omitted as unnecessary in view of this subsection since it specifically gives authority to impose requirements under the circumstances referred to in the last sentence.

In subsection (a)(3), the words "motor common carrier providing transportation under a certificate" are substituted for "such common carrier" for clarity. The words "in its discretion" and "legally" are omitted as surplus. The word "service" is omitted for consistency and because the jurisdictional grant to the Commission under subchapter II of chapter 105 of the revised title is jurisdiction over transportation and service is included in the definition of "transportation".

In subsection (b), the words "in such form and amount" are omitted as unnecessary in view of section 10321(a) of the revised title giving the Commission general authority to carry out the subtitle.

In subsection (c), the words "to prescribe reasonable rules and regulations" are omitted in view of section 10321(a) of the revised title giving the Commission general authority to carry out the subtitle. The word "providing" is substituted for "performance" for consistency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10922, 10923, 10924, 10925, 11708 of this title.

§ 10928. Temporary authority for motor and water carriers

Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Interstate Commerce Commission may grant a motor carrier or water carrier temporary authority to provide transportation to a place or in an area having, respectively, no motor carrier or water carrier capable of meeting the immediate needs of the place or area. Unless suspended or revoked, the Commission may grant the temporary authority for not more than 180 days. A grant of temporary authority does not establish a presumption that permanent authority to provide transportation will be granted under this subchapter.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1414.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
10928.....	49:310a(a), (c).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 210a(a), (c); added June 29, 1938, ch. 811, § 10, 52 Stat. 1238; Mar. 27, 1942, ch. 199, § 102, 56 Stat. 177.
	49:911(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 311(a); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 943.

The word "transportation" is substituted each place for "service" and "transportation service" for consistency and as being more precise because the jurisdictional grant to the Interstate Commerce Commission under subchapter III of chapter 105 of the revised title is jurisdiction over transportation. The words "Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5" are substituted for "without hearings or other proceedings" as being more precise. The words "motor carrier or water carrier" are inserted before "carrier capable" for clarity. The phrase "not more than 180 days" is retained. The amendments made by sections 102 and 103 of the Act of March 27, 1942, striking the words "not to exceed 180 days" expired on March 31, 1947, and the words struck out were restored to the law, by virtue of section 1501 of the same Act, as amended (60 Stat. 345; 50 U.S.C. app. 645). The words "and urgent" are omitted as redundant. The words "place" and "area" are substituted for "point" and "territory", respectively, for consistency. The words "or points" are omitted as unnecessary. The words "in its discretion" are omitted as surplus. The words "Unless suspended or revoked" are made applicable to 49:911(a) for clarity and consistency. The words "under this subchapter" are inserted for clarity. 49:310a(c) is omitted for consistency and as being unnecessary in view of the authority of the Commission to grant the authority and the general authority of the Commission under section 10321(a) of the revised title to carry out the subtitle.

§ 10929. Temporary authority for previously exempt water transportation

When transportation exempt from the jurisdiction of the Interstate Commerce Commission under section 10544(a)-(c) of this title becomes subject to the jurisdiction of the Commission, the water carrier may continue to provide the transportation without a certificate or permit issued under this subchapter for a period of 120 days beginning on the day the transportation becomes subject to the jurisdiction of the Commission. If the carrier applies to the Commission within that period for a certificate or permit to provide the transportation previously exempt, the Commission shall issue to the carrier the appropriate certificate or permit authorizing the transportation. The Commission shall issue each such certificate and permit without regard to subchapter II of

chapter 103 of this title and subchapter II of chapter 5 of title 5.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1415.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10929.....	49:903(*l*).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 303(*l*); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 933.

The word "water" is inserted before "carrier" the first time it appears for clarity. The words "beginning on the day the transportation becomes subject to the jurisdiction of the Commission" are inserted for clarity. The words "without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5" are substituted for "without further proceedings" as being more precise.

§ 10930. Limitations on certificates and permits

(a) Except when the Interstate Commerce Commission finds good cause consistent with the public interest and the transportation policy of section 10101 of this title—

(1) a person may not hold both a certificate of a motor common carrier and a permit of a motor contract carrier issued under this subchapter, or both a certificate of a water common carrier and a permit of a water contract carrier issued under this subchapter, to transport property over the same route or in the same area; and

(2) if a person controls, is controlled by, or is under common control with, another person—

(A) one of them may not hold a certificate of a motor common carrier, while the other holds a permit of a motor contract carrier, to transport property over the same route or in the same area; and

(B) one of them may not hold a certificate of a water common carrier, while the other holds a permit of a water contract carrier, to transport property over the same route or in the same area.

(b)(1) A person may not hold a permit of a freight forwarder issued under this subchapter if the person is a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title.

(2) Except for motor vehicle transportation subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title by section 10523(a)(2) of this title, a permit may not authorize a freight forwarder to conduct direct rail, water, or motor carrier transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of that chapter.

(3) Except when the Commission finds that service to be provided as a freight forwarder is consistent with the public interest and the transportation policy of section 10101 of this title, a person may not hold a permit of a freight forwarder when—

(A) the principal business of the person is manufacturing and selling, or buying and selling, or both manufacturing and selling and buying and selling articles or commodities, and the service of a freight forwarder (or similar assembling, consolidating, and shipping service is provided by the person for its own business) is commonly used to transport the articles or commodities; or

(B) the person controls, is controlled by, or is under common control with, a person referred to in clause (A) of this paragraph.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1415.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10930(a).....	49:310.	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 210; added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 554; Sept. 18, 1940, ch. 722, §§ 16, 21(a), 54 Stat. 919, 923.
	49:910.	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 310; added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 943.
10930(b)(1).	49:1010(c) (2d sentence words before semicolon).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §§ 410(c) (2d sentence words before semicolon), (h), 411(b) (less last proviso); added May 16, 1942, ch. 318, § 1, 56 Stat. 291.
10930(b)(2).	49:1010(h).	
10930(b)(3).	49:1011(b) (less last proviso).	

In subsection (a), the words "or shall have found" are omitted as executed.

In subsection (b)(2), the words "subject to the jurisdiction of the Commission under subchapter I, II, or III of that chapter" are substituted for "is to be regulated as service subject to this chapter" for clarity and consistency.

In subsection (b)(3), the words "It shall be unlawful for", "operations are of such character that", "or forwarders", and "in connection with the transportation" are omitted as unnecessary. The words "under section 1010 of this title" and "is otherwise qualified under section 1010 of this title" are omitted in view of section 10921 of the revised title requiring a person to have a permit and satisfying the requirements for issuance of a permit under subchapter II of chapter 109 of the revised title, or else requiring the person to come within one of the exceptions, before the person can provide the service of a freight forwarder subject to Commission jurisdiction.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10922, 10923, 11702, 11708 of this title.

§ 10931. Motor common carriers providing transportation entirely in one State

(a) A motor common carrier may provide transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title without a certificate issued by the Commission under section 10922 of this title, when—

(1) the carrier provides transportation entirely in one State;

(2) the carrier is not controlled by, controlling, or under common control with a carrier providing transportation outside the State;

(3) the carrier has applied for, and has been issued, a certificate of public convenience and necessity by the State authority having jurisdiction to issue such a certificate, permitting the carrier to provide intrastate transportation by motor vehicle; and

(4) the intrastate certificate was issued after, and the certificate states that—

(A) notice was given to interested parties through publication in the Federal Register of the filing of the application by the carrier and the desire of the carrier to provide transportation otherwise under the jurisdiction of the Commission within the limits of the certificate issued by the State authority;

(B) reasonable opportunity to be heard was given; and

(C) the State authority considered and found that the public convenience and necessity require that the carrier be permitted to provide transportation under the jurisdiction of the Commission within limits that do not exceed the scope of the certificate issued by the State authority.

(b) An interested party that opposed issuing the certificate to a motor common carrier in a proceeding before a State authority may petition the Commission for reconsideration of a decision of the State authority. On reconsideration, the Commission, based on the record before the State authority, may affirm, reverse, or change that decision, but only with respect to the transportation subject to Commission jurisdiction.

(c) The Commission may require, before a motor common carrier provides transportation authorized under this section, that—

(1) a certified copy of the carrier's intrastate certificate and other appropriate information be filed with the Commission; and

(2) the carrier comply with applicable requirements established by the Commission.

(d)(1) The Commission shall issue a certificate of registration to a motor common carrier authorizing the carrier to provide transportation under this section. The authority granted under the certificate is subject to all other applicable provisions of this subtitle. Except as otherwise provided in this subsection and subchapter III of chapter 113 of this title, the certificate of registration may be transferred if it is transferred with the intrastate certificate. Transfer of the intrastate certificate without the certificate of registration revokes the certificate of registration.

(2) The certificate of registration issued by the Commission is valid as long as the motor common carrier provides transportation entirely in the State from which it received its intrastate certificate and is not controlled by, controlling, or under common control with, a carrier providing transportation outside the State.

(e)(1) On the 180th day after the termination, restriction in scope, or suspension of the intrastate certificate, the authority granted under this section to provide transportation is revoked or likewise restricted unless the intrastate certificate is renewed or reissued or the restriction is removed by that 180th day.

(2) Transportation authorized under this section may be suspended or revoked by the Commission under section 10925 of this title.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1416.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10931(a).....	49:306(a)(6) (1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 206(a)(6); added Oct. 15, 1962, Pub. L. 87-805, § 2, 76 Stat. 911.
10931(b).....	49:306(a)(6) (last sentence).	
10931(c).....	49:306(a)(6) (6th sentence).	
10931(d).....	49:306(a)(6) (2d and 3d sentences).	
10931(e).....	49:306(a)(6) (4th and 5th sentences).	

In the section, the word "transportation" is substituted for "operations" for consistency and in view of the jurisdiction of the Interstate Commerce Commission over transportation under subchapter II of chapter 105 of the revised title. The words "interstate or foreign commerce" are omitted as being already included in the words in subsection (a) "subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105". The word "authority" is substituted for "commission" for consistency and to distinguish from "Commission". The word "permitting" is substituted for "authorizing" for consistency and to avoid confusion with the term "State authority".

In subsection (a), the words "On and after October 15, 1962" are omitted as executed. The words "interested parties" are substituted for "interested persons" for consistency and as being more precise. The words "duly" and "the question of the proposed interstate and foreign operations" are omitted as unnecessary.

In subsection (b), the words "In accordance with such reasonable rules as may be prescribed by the Commission" are omitted as unnecessary in view of section 10321(a) of the revised title giving the Commission general authority to carry out the subtitle and to prescribe regulations.

In subsection (c), the word "information" is substituted for "statements and data" to eliminate redundancy.

In subsection (d), the words "and the regulations prescribed hereunder" and "pursuant to such rules and regulations as may be prescribed by the Commission" are omitted as unnecessary in view of section 10321(a) of the revised title giving the Commission general authority to carry out the subtitle and to prescribe regulations. The words "otherwise provided in this subsection" are substituted for "in the conditions and limitations stated herein" as being more precise. The word "revokes" is substituted for "shall terminate" for consistency.

In subsection (e), the word "revoked", with respect to Commission action, is substituted for "terminated" for consistency. The words "under section 10925 of this title" are substituted for "in accordance with the provisions of this Act governing the suspension and termination of certificates issued by the Commission" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11708 of this title.

§ 10932. Motor carrier savings provisions

(a) Except as specifically provided in a certificate or permit, the holder of a motor carrier certificate or permit issued as the result of an

application filed before September 2, 1950, authorizing the carrier to provide transportation in the United States or between the United States and a foreign country (to the extent the transportation is in the United States), may provide the transportation between a place in the United States and a place in a territory or possession of the United States—

(1) without being authorized to do so by the Interstate Commerce Commission; and

(2) to the same extent and subject to the same conditions of the certificate or permit of the carrier.

(b)(1) A motor common carrier providing transportation under an intrastate certificate issued by a State and under a certificate of registration issued by the Commission under section 206(a)(7) of the Interstate Commerce Act (76 Stat. 912) that has been in effect since October 15, 1962, may continue to provide transportation otherwise subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title—

(A) if the certificate of the State authorizing intrastate transportation is limited to a specified period of time, only for that period;

(B) subject to all other applicable provisions of this subtitle;

(C) as long as the carrier provides transportation only in the State issuing the intrastate certificate; and

(D) as long as the carrier is not controlled by, controlling, or under common control with, a carrier providing transportation outside the State.

(2) Except as provided in subchapter III of chapter 113 of this title, the certificate of registration issued by the Commission may be transferred if it is transferred with the intrastate certificate. Transfer of the intrastate certificate without the certificate of registration revokes the certificate of registration.

(3) On the 180th day after the termination, restriction in scope, or suspension of the intrastate certificate, the authority granted under the certificate of registration is revoked or likewise restricted unless the intrastate certificate is renewed or reissued or the restriction is removed by that 180th day. The certificate of registration may be suspended or revoked by the Commission under section 10925 of this title.

(c) Under regulations of the Commission, a motor common carrier transporting passengers under a certificate issued by the Commission as the result of an application filed before January 2, 1967, or under a reissuance of the operating authority provided in the certificate, may provide transportation to any place subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title for special and chartered parties.

(d) The Commission may not prescribe a condition for a motor contract carrier permit issued before August 23, 1957, that restricts the authority of the carrier—

(1) to substitute similar contracts within the scope of the permit; or

(2) to add contracts within the scope of the permit, unless the Commission, on its own initiative or on petition of an interested carrier, finds that the scope of the transportation to be provided by the motor contract carrier under any such additional contract is not confined to transportation provided by a motor contract carrier as defined after August 21, 1957.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1417.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10932(a).....	49:306(a)(2), 309(a)(2).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §§ 206(a)(2), 209(a)(2); added Sept. 1, 1950, ch. 835, §§ 2, 3, 64 Stat. 574, 575.
10932(b).....	49:306(a)(7).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 206(a)(7); added Oct. 15, 1962, Pub. L. 87-805, § 2, 76 Stat. 912.
10932(c).....	49:308(c).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 208(c); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 552; restated Nov. 10, 1966, Pub. L. 89-804, § 1, 80 Stat. 1521.
10932(d).....	49:309(b) (last proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 209(b) (last proviso); added Aug. 22, 1957, Pub. L. 85-163, § 2, 71 Stat. 412.

In subsection (a), the words "heretofore issued under this chapter, or hereafter issued under this chapter" are omitted as unnecessary in view of section 10321(a) of the revised title giving the Interstate Commerce Commission general authority to carry out the subtitle and to prescribe regulations. The words "in the United States or between the United States and a foreign country (to the extent the transportation is in the United States)" are substituted for "interstate or foreign commerce" for consistency and as being more informative. The words "over any route or routes or within any territory" and "limitations" are omitted as unnecessary. The words "may provide the transportation" are substituted for "may . . . engage" for consistency and in view of the jurisdiction of the Commission over transportation under subchapter II of chapter 105 of the revised title.

In subsection (b), the first and second sentences of paragraph (7)(A) and all of paragraph (7)(B) of 49:306(a)(7) are omitted as executed. The word "transportation" is substituted for "operations" for consistency and in view of the jurisdiction of the Commission over transportation. The words "interstate or foreign commerce" are omitted as being already included in the words "subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title". The words "and the regulations prescribed hereunder" and "pursuant to such rules and regulations as may be prescribed by the Commission" are omitted as unnecessary in view of section 10321(a) of the revised title.

In subsection (b)(2) and (3), the words "revokes" and "revoked" with respect to Commission action, are substituted for "shall terminate" and "terminate", respectively, for consistency. The words "under section 10925 of this title" are substituted for "in accordance with the provisions of this Act governing the suspension and termination of certificates of public convenience and necessity issued by the Commission" for clarity.

In subsection (c), the words "interstate or foreign commerce" are omitted as being already included in the words "subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title". The words "rules and regulations as the Commission shall have prescribed" are omitted in view of section 10321(a) of the revised title.

In subsection (d), the words "terms, or limitations" are omitted as unnecessary. The words "on its own initiative" are substituted for "on its own motion" for consistency.

REFERENCES IN TEXT

Section 206(a)(7) of the Interstate Commerce Act, referred to in subsec. (b)(1), was classified to section 306(a)(7) of this title, from which subsec. (b) of this section was derived, and was repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1466. For further details, see Historical and Revision note set out above.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11708 of this title.

§ 10933. Authorizing abandonment of freight forwarder service

When a freight forwarder is controlled by, or under common control with, a common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title, the freight forwarder may abandon any part of the service it provides subject to the jurisdiction of the Commission under subchapter IV of chapter 105, only if the Commission finds the abandonment is consistent with the public interest and the transportation policy of section 10101 of this title. On making the finding, the Commission shall issue to the freight forwarder a certificate describing the abandonment authorized by the Commission.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1418.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
10933.....	49:1010(i) (1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 410(i) (1st sentence); added May 16, 1942, ch. 318, § 1, 56 Stat. 293.

The words "only if" are substituted for "unless and until" for consistency and to eliminate redundancy. The words "describing the abandonment authorized by the Commission" are inserted for clarity and consistency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11505, 11702, 11704, 11908 of this title.

CHAPTER 111—OPERATIONS OF CARRIERS

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SUBCHAPTER I—GENERAL REQUIREMENTS

§ 11101. Providing transportation and service

(a) A common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title shall provide the transportation or service on reasonable request. In addition, a motor common carrier shall provide safe and adequate service, equipment, and facilities.

(b) The Commission may prescribe requirements for continuous and adequate transportation and service provided by motor common carriers and freight forwarders subject to the jurisdiction of the Commission under subchapters II and IV of chapter 105 of this title and for transportation of baggage and express by such motor common carriers of passengers.

(c) The Commission may not regulate the duration of, or the amount of compensation payable under, an arrangement between a motor carrier and another party to use, with a driver, a motor vehicle not owned by that carrier to transport property when—

(1) the motor vehicle—

(A) to be used is that of a farmer or a cooperative association or a federation of cooperative associations under section 10526(a)(4) or (5) of this title or a motor private carrier;

(B) is used regularly in the transportation of (i) property referred to in section 10526(a)(6) of this title, or (ii) perishable products manufactured from perishable property referred to in that section; and

(C) is to be used by the carrier in a single movement or in one or more of a series of movements, loaded or empty, in the general direction of the general area where the motor vehicle is based; or

(2) the motor vehicle to be used has completed a movement exempt under section 10526(a)(6) of this title and is next to be used by that carrier in a loaded movement in any direction or in a movement referred to in clause (1)(C) of this subsection, or both.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1419.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11101(a).....	49:1(4) (1st sentence 14th-23d words).	Feb. 4, 1887, ch. 104, § 1(4) (1st sentence 14th-23d words); 24 Stat. 379; June 29, 1906, ch. 3591, § 1, 34 Stat. 584; Feb. 28, 1920, ch. 91, § 400, 41 Stat. 475; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 2(c), 54 Stat. 900.
	49:316(a) (25th-44th words), (b) (16th-33d words).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 216(a) (25th-44th words), (b) (16th-33d words); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 558.
	49:905(a) (1st sentence 1st cl.).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 305(a) (1st sentence 1st clause); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 934.
	49:1004(a) (1st cl.).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 404(a) (1st clause); added May 16, 1942, ch. 318, § 1, 56 Stat. 286.
11101(b).....	49:304(a)(1) (related to service).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(1) (related to service); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 546.
	49:1003(b).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 403(b); added May 16, 1942, ch. 318, § 1, 56 Stat. 285.
11101(c).....	49:304(f).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(f); added Aug. 3, 1956, ch. 928, § 1, 70 Stat. 983.

Subsection (a) restates and consolidates the source provisions for clarity. The words "or service" are retained as related to freight forwarders in view of subchapter IV of chapter 105 of the revised title. The words "thereto" and "therefor" are omitted as surplus. The words "interstate or foreign commerce" in 49:316(a) and (b) are omitted in view of chapter 105 of the revised title.

In subsection (b), the word "prescribe" is substituted for "establish" for consistency. The word "reasonable" is omitted as surplus. The words "of passengers" are inserted for clarity. The provisions related to regulation of common and contract carriers by motor vehicle and brokers are omitted as surplus in view of the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 and the licensing requirements of subchapter II of chapter 109 of the revised title.

In subsection (c), the words "may not" are substituted for "nothing in this chapter shall be construed to authorize" for clarity. The word "arrangement" is substituted for "lease, contract, or other arrangement" to eliminate redundancy. The words "referred to in" are substituted for "of a character embraced within" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10341, 10925, 11107, 11126 of this title.

§ 11102. Classification of carriers

The Interstate Commerce Commission may classify and maintain requirements for groups of carriers included in the terms "motor common carrier", "water common carrier", "motor contract carrier", or "water contract carrier" and for brokers, when required because of the special nature of the transportation provided by them.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1419.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11102.....	49:304(b).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(b); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 546; Sept. 18, 1940, ch. 722, § 20(b)(3), 54 Stat. 922.
	49:904(c).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 304(c); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 934.

The words "just and reasonable . . . consistent with the provisions of this chapter . . . to be observed by . . . deems necessary or desirable in the public interest" are omitted as surplus. The words "transportation provided" are substituted for "services performed" for consistency and in view of the definition of "transportation" in section 10102 of the revised title.

§ 11103. Use of terminal facilities

(a) The Interstate Commerce Commission may require terminal facilities, including mainline tracks for a reasonable distance outside of a terminal, owned by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, to be used by another rail carrier if the Commission finds that use to be practicable and in the public interest without substantially impairing the ability of the rail carrier owning the facilities or entitled to use the facilities to handle its own business. The carriers are responsible for establishing the conditions and compensation for use of the facilities. However, if the carriers cannot agree, the Commission may establish conditions and compensation for use of the facilities under the principle controlling compensation in condemnation proceedings. The compensation shall be paid or adequately secured before a carrier may begin to use the facilities of another carrier under this section.

(b) A rail carrier whose terminal facilities are required to be used by another carrier under this section is entitled to recover damages from the other carrier for injuries sustained as the result of compliance with the requirement or for compensation for the use, or both, as appropriate, in a civil action, if it is not satisfied with the conditions for use of the facilities or if the amount of the compensation is not paid promptly.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1419.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11103.....	49:3(5).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 3(5); added Feb. 28, 1920, ch. 91, § 405, 41 Stat. 479; Sept. 18, 1940, ch. 722, § 5(f), 54 Stat. 904.

In subsection (a), the words "may require" are substituted for "shall have power by order to require" to eliminate redundancy. The words "carriers are responsible for establishing" are substituted for "carriers affected may agree" for clarity. The word "conditions" is substituted for "terms" for consistency. The word "establish" is substituted for "fix" for consistency. The words "just and reasonable" are omitted as surplus in view of the requirement that conditions be established as if in a condemnation proceeding. The word "duly" is omitted as surplus.

In subsection (b), the words "civil action" are substituted for "suit or action" to conform to title 28. The word "proper" is omitted as surplus. The words "as appropriate" are substituted for "as the case may be" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10705, 10707, 10711, 10729, 11126 of this title.

§ 11104. Switch connections and tracks

(a) On application of the owner of a lateral branch line of railroad, or of a shipper tendering interstate traffic for transportation, a common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall construct, maintain, and operate, on reasonable conditions, a switch connection to connect that branch line or private side track with its railroad and shall furnish cars to move that traffic to the best of its ability without discrimination in favor of or against the shipper when the connection—

(1) is reasonably practicable;

(2) can be made safely; and

(3) will furnish sufficient business to justify its construction and maintenance.

(b) If a common carrier fails to install and operate a switch connection after application is made under subsection (a) of this section, the owner of the lateral branch line of railroad or the shipper may file a complaint with the Commission under section 11701 of this title. The Commission shall investigate the complaint and decide the safety, practicability, justification, and compensation to be paid for the connection. The Commission may direct the common carrier to comply with subsection (a) of this section only after a full hearing.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1420.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11104.....	49:1(9).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(9); added June 29, 1906, ch. 3591, § 1, 34 Stat. 585; Feb. 28, 1920, ch. 91, § 401, 41 Stat. 475; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.

In subsection (a), the words "the owner of" are inserted for clarity and for consistency with 49:1(9) (last sentence). The words "a switch connection to connect" are substituted for "which may be constructed to connect" for clarity.

In subsection (b), the word "investigate" is substituted for "hear and investigate" to eliminate redundancy. The words "decide" and "full hearing" are inserted for clarity and as substitutes for the cross reference to 49:15. The last clause of 49:1(9) (last sentence) is omitted as unnecessary in view of section 10324 of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11126 of this title.

§ 11105. Protective services

A rail or express carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may arrange for a person to furnish to or for the carrier a protective service against heat or cold for property transported by it subject to that jurisdiction only when the Commission finds the arrangement to be reasonable and in the public interest.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1420.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11105.....	49:1(14)(b).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(14)(b); added Sept. 18, 1940, ch. 722, § 4(a), 54 Stat. 901.

The words "may . . . only when" are substituted for "It shall be unlawful for . . . unless and until" for clarity. The words "make or enter into" are omitted as unnecessary. The word "arrange" is substituted for "contract, agreement, or arrangement" to eliminate redundancy. The words "finds the arrangement" are substituted for "has been submitted to and approved by" in view of subchapter II of chapter 103 of the revised title. The words "subject to the jurisdiction" are substituted for "interstate or foreign commerce" as being more precise and in view of the codification of all jurisdictional provisions in chapter 105 of the revised title. The words "to be reasonable and in the public interest" are substituted for "as just, reasonable, and consistent with the public interest" for consistency. See the revision note to section 10101 of the revised title. The words "to continue after April 1, 1941," and the proviso following the 62d word of 49:1(14)(b) are omitted as executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11126 of this title.

§ 11106. Identification of motor vehicles

(a) The Interstate Commerce Commission may—

(1) issue and require the display of an identification plate on a motor vehicle used in transportation subject to its jurisdiction under subchapter II of chapter 105 of this title; and

(2) require the carrier to pay the reasonable cost of the plate.

(b) A carrier may use an identification plate only as authorized by the Commission.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1420.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11106(a).....	49:324 (1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 224; added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 566; restated June 29, 1938, ch. 811, § 18, 52 Stat. 1240.
11106(b).....	49:324 (less 1st sentence).	

In subsection (a), the word "may" is substituted for "is authorized" for clarity. The words "under such rules and regulations as it shall prescribe" are omitted as unnecessary in view of subchapter II of chapter 103 of the revised title. The word "suitable" is omitted as surplus.

In subsection (b), the word "use" is substituted for "substitute, transfer, or use" to eliminate redundancy. The words "is prohibited and shall be unlawful" are omitted as surplus. The next-to-last sentence is omitted as surplus in view of section 484 of title 31.

§ 11107. Leased motor vehicles

Except as provided in section 11101(c) of this title, the Interstate Commerce Commission may require a motor carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title that uses motor vehicles not owned by it to transport property under an arrangement with another party to—

(1) make the arrangement in writing signed by the parties specifying its duration and the compensation to be paid by the motor carrier;

(2) carry a copy of the arrangement in each motor vehicle to which it applies during the period the arrangement is in effect;

(3) inspect the motor vehicles and obtain liability and cargo insurance on them; and

(4) have control of and be responsible for operating those motor vehicles in compliance with requirements prescribed by the Secretary of Transportation on safety of operations and equipment, and with other applicable law as if the motor vehicles were owned by the motor carrier.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1420.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11107.....	49:304(e).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(e); added Aug. 3, 1956, ch. 928, § 1, 70 Stat. 983.

The section restates the source provisions for clarity and to reflect the transfer to the Secretary of Transportation of the Commission's functions related to safety of operations. The words "Except as provided in section 11101(c) of this title" are substituted for "Subject to the provisions of subsection (f) of this section" to cite the corresponding revised subsection. The word "regulations" is omitted as unnecessary in view of subchapter II of chapter 103 of the revised title. The word "arrangement" is substituted for "leases, contracts, or other arrangements" to eliminate redundancy.

§ 11108. Water carriers subject to unreasonable discrimination in foreign transportation

(a) The Interstate Commerce Commission may relieve a water carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title, from the requirements of this subtitle when a rate, rule, or practice established by a person providing water transportation to or from a port in a foreign country in competition with that carrier unreasonably discriminates against that carrier. The Commission may relieve that carrier to the extent and for the period of time necessary to end or ease the discrimination if the relief is in the public interest and consistent with the transportation policy of section 10101 of this title.

(b) The Commission may begin a proceeding under this section on its own initiative or on application.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1421.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11108(a).....	49:904(d) (less 1st-12th words).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 304(d); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 934.
11108(b).....	49:904(d) (1st-12th words).	

In subsection (a), the words "subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title" are inserted to conform this subsection to the revised title. The word "rate" is substituted for "rates, fares" in view of the definition of "rate" in section 10102 of the revised title. The word "rule" is substituted for "regulation" for consistency when referring to a carrier. The words "water carrier" are substituted for "common carriers by water or contract carriers by water" in view of the definition of "water carrier" in section 10102 of the revised title. The words "unreasonably discriminates" are substituted for "cause undue disadvantage" for consistency. See the revision note to section 10101 of the revised title. The words "by reason of such competition" are omitted as unnecessary in view of the restatement. The words "in such manner as in its judgment" are omitted to eliminate redundancy. The words "end or ease" are substituted for "avoid" or "lessen" for clarity.

In subsection (b) the words "The Commission may begin a proceeding under this section on its own initiative or on application" are substituted for "upon application, or upon its own initiative without application" and "whenever it shall appear from complaint made to the Commission or otherwise" for clarity and consistency.

SUBCHAPTER II—CAR SERVICE

§ 11121. Criteria

(a) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall furnish safe and adequate car service and establish, observe, and enforce reasonable rules and practices on car service. The Commission may—

(1) require a rail carrier to file its car service rules with the Commission; and

(2) require that carrier to incorporate those rules in its tariffs.

(b) The Commission may designate and appoint agents and agencies to make and carry out its directions related to car service and matters under sections 11123-11125, 11127, and 11128(a)(1) of this title.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1421.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11121(a).....	49:1(11), (13).	Feb. 4, 1887, ch. 104, § 1(11), (13), 24 Stat. 379; June 29, 1906, ch. 3591, § 1, 34 Stat. 584; May 29, 1917, ch. 23, § 1, 40 Stat. 101; restated Feb. 28, 1920, ch. 91, § 402, 41 Stat. 476; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
11121(b).....	49:1(17)(a) (1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(17)(a) (1st sentence); added Feb. 28, 1920, ch. 91, § 402, 41 Stat. 477; Sept. 18, 1940, ch. 722, § 4(b), 54 Stat. 901.

In the first sentence of subsection (a), the word "shall" is substituted for "It shall be the duty of" in 49:1(11). The words "just", "regulations", and "is prohibited and declared to be unlawful" are omitted as surplus.

In the second sentence of subsection (a), the words "by general or special orders", "all", "any of", "from time to time", "regulations", "in its discretion", "showing", and "be subject to any or all of the provisions of this chapter relating thereto" in 49:1(13) are omitted as surplus. The word "tariffs" is substituted for "schedules" for consistency and in view of the definition of "tariff" in section 10102 of the revised title.

In subsection (b), the cross references are substituted for "paragraphs (15) and (16)" to cite the corresponding sections of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11126 of this title.

§ 11122. Compensation and practice

(a) The regulations of the Interstate Commerce Commission on car service shall encourage the purchase, acquisition, and efficient use of freight cars. The regulations may include—

(1) the compensation to be paid for the use of a locomotive, freight car, or other vehicle;

(2) the other terms of any arrangement for the use by a rail carrier of a locomotive, freight car, or other vehicle not owned by the rail carrier using the locomotive, freight car, or other vehicle, whether or not owned by another carrier, shipper, or third person; and

(3) sanctions for nonobservance.

(b)(1) The rate of compensation to be paid for each type of freight car shall be determined by the expense of owning and maintaining that type of freight car, including a fair return on its cost giving consideration to current costs of capital, repairs, materials, parts, and labor. In determining the rate of compensation, the Commission shall consider the transportation use of each type of freight car, the national level of ownership of each type of freight car, and other factors that affect the adequacy of the national freight car supply.

(2) The Commission may increase a rate of compensation determined under paragraph (1) of this subsection by an incentive element only when the Commission finds that the supply of a type of freight car is inadequate and an incentive element will compensate freight car owners, contribute to sound car service practices (including efficient utilization and distribution of cars), and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and national defense. The Commission may exempt that incentive element from the compensation to be paid by a carrier or group of carriers when the Commission finds that exemption is in the national interest.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1421.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11122.....	49:1(14)(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(14)(a); added May 29, 1917, ch. 23, § 1, 40 Stat. 101; Feb. 28, 1920, ch. 91, § 402, 41 Stat. 476; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 4(a), 54 Stat. 901; May 26, 1966, Pub. L. 89-430, § 1, 80 Stat. 168; restated Feb. 5, 1976, Pub. L. 94-210, § 212(a), 90 Stat. 46.

In subsection (a), the words "It is the intent of the Congress to" are omitted as surplus. The words "establish rules, regulations, and practices" are omitted in view of section 10321 of the revised title. The words "after notice and an opportunity for a hearing" are omitted as surplus in view of subchapter II of chapter 103 of the revised title and subchapter II of chapter 5 of title 5. The words "by common carriers by railroad subject to this chapter" are omitted as unnecessary in view of chapter 105 and section 11121 of the revised title.

In subsection (a)(2), the words "freight car" are added for consistency. The words "penalties or other" are omitted as surplus.

In subsection (b)(1), the words "shall consider" are substituted for "shall give consideration" for clarity.

In subsection (b)(2), 49:1(14)(a) (5th sentence) is restated for clarity and consistency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11126 of this title.

§ 11123. Situations requiring immediate action

(a) When the Interstate Commerce Commission considers that a shortage of equipment, congestion of traffic, or other emergency requiring immediate action exists in a section of the United States, the Commission may—

(1) suspend any car service rule or practice;

(2) take action during the emergency to promote service in the interest of the public and of commerce regardless of the ownership (as between carriers) of a locomotive, car, or other vehicle on terms of compensation the carriers establish between themselves subject to subsection (b)(2) of this section;

(3) require joint or common use of terminals, including mainline tracks for a reasonable distance outside of those terminals, on terms of compensation the carriers establish between themselves, subject to subsection (b)(2) of this section, when that action will best meet the emergency and serve the public interest; and

(4) give directions for preference or priority in transportation, embargoes, or movement of traffic under permits.

(b)(1) Except as provided in paragraph (2) of this subsection, the Commission may act under this section on its own initiative or on application without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5.

(2) When the carriers do not agree on terms of compensation under subsection (a)(2) of this section or on terms for joint or common use of terminals under subsection (a)(3) of this section, the Commission may establish for them in a later proceeding terms of compensation the Commission finds to be reasonable.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1422.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11123.....	49:1(15) (related to car service less last sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(15) (related to car service less last sentence); added May 29, 1917, ch. 23, § 1, 40 Stat. 101; restated Feb. 28, 1920, ch. 91, § 402, 41 Stat. 476; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.

In subsection (a), before clause (1), the words "When . . . considers" are substituted for "Whenever . . . is of the opinion" for clarity. The word "may" is substituted for "shall have, and it is given, authority" to conform to the style of the revised title.

In subsection (a)(1), the word "regulations" is omitted as surplus.

In subsection (a)(2), the words "take action" are substituted for "make such just and reasonable directions" for clarity.

In subsection (a)(4), the words "at such time and for such period as it may determine, and to modify, change, suspend, or annul them" are omitted as surplus.

Subsection (b) restates the procedural requirements for emergency action for clarity. The word "application" is substituted for "complaint" for consistency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11121, 11126, 11128, 11901 of this title.

§ 11124. Rerouting traffic on failure of rail carrier to serve the public

(a) When the Interstate Commerce Commission considers that a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title cannot transport the traffic offered to it in a manner that properly serves the public, the Commission may direct the handling, routing, and movement of the traffic of that carrier and its distribution over other railroad lines to promote commerce and service to the public. Subject to subsection (b)(2) of this section, the carriers may establish the terms of compensation between themselves.

(b)(1) Except as provided in paragraph (2) of this subsection, the Commission may act under this section on its own initiative or on application without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5.

(2) When the carriers do not agree on the terms of compensation under this section, the Commission may establish the terms for them in a later proceeding.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1422.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11124.....	49:1(16) (related to traffic less (b)).	Feb. 4, 1887, ch. 104, § 1(16) (related to traffic less (b)), 24 Stat. 379; June 29, 1906, ch. 3591, § 1, 34 Stat. 584; May 29, 1917, ch. 23, § 1, 40 Stat. 101; restated Feb. 28, 1920, ch. 91, § 402, 41 Stat. 477; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Jan. 2, 1974, Pub. L. 93-236, § 601(e), 87 Stat. 1021.

In subsection (a), the words "When . . . considers" are substituted for "Whenever . . . is of the opinion" for clarity.

Subsection (b), and the cross reference to it in subsection (a), constitute a restatement of the procedure required to be followed under the cross reference to 49:1(15) in 49:1(16)(a). The words "just and reasonable" are omitted as unnecessary.

In subsection (b)(2), the word "proceeding" is substituted for "hearing" to conform to the style of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11121, 11126, 11342, 11901 of this title.

§ 11125. Directed rail transportation

(a) When a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title cannot transport the traffic offered to it because—

(1) its cash position makes its continuing operation impossible;

(2) transportation has been discontinued under court order; or

(3) it has discontinued transportation without obtaining a required certificate under section 10903 of this title;

the Commission may direct the handling, routing, and movement of the traffic available to that carrier and its distribution over the railroad lines of that carrier by another carrier to promote service in the interest of the public and of commerce. Subject to subsection (b) of this section, the Commission may act without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5.

(b)(1) Action of the Commission under subsection (a) of this section may not remain in effect for more than 60 days. However, the Commission may extend that period for an additional designated period of not more than 180 days if cause exists.

(2) The Commission may not take action that would—

(A) cause a directed carrier to operate in violation of section 421 of title 45; or

(B) impair substantially the ability of a directed carrier to serve its own patrons adequately, or to meet its outstanding common carrier obligations.

(3) A directed carrier is not responsible, because of the direction of the Commission, for the debts of the other carrier.

(4) A directed carrier shall hire the employees of the other carrier, to the extent that they previously provided that transportation for the other carrier, and assume the existing employment obligations and practices of the other carrier for those employees including agreements governing rate of pay, rules and working conditions, and employee protective conditions for the period during which the action of the Commission is effective.

(5) A directed carrier may apply to the Commission for payment of an amount equal to the amount by which (A) the total expenses of that carrier incurred in or attributable to the handling, routing, and moving the traffic over the lines of the other carrier for the period during which the action of the Commission is effective, including renting or leasing necessary equipment and an allocation of common expenses, overhead, and a reasonable profit, exceed (B) the direct revenues from handling, routing, and moving that traffic over the lines of the other carrier during that period. The carrier must submit a current record of those total expenses to the Commission. The Commission shall certify promptly, to the Secretary of the Treasury, the amount to be paid. The Secretary shall pay that amount by the 90th day after the end of the period during which the direction of the Commission is effective, and funds are authorized to be appropriated for that payment. The Commission may audit any such record.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1423.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11125.....	49:1(16)(b).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(16)(b); added Jan. 2, 1974, Pub. L. 93–236, § 601(e), 87 Stat. 1021.

In subsection (a), the word "When" is substituted for "Whenever" for clarity. The word "cannot" is substituted for "is unable" to conform to the style of the revised title. The word "discontinued" is substituted for "abandoned" to conform with section 10903 of the revised title. The word "transportation" is substituted for "service" in view of the definition of "transportation" in section 10102 of the revised title and because the Interstate Commerce Commission has jurisdiction over transportation. The words "required certificate" are substituted for "certificate" in view of section 10903 of the revised title. The last sentence is a restatement of the procedure required to be followed under the cross reference in 49:1(16)(b) to 49:1(15). The words "just and reasonable" are omitted as unnecessary.

In subsection (b), the words "Action of the Commission" are substituted for "Such direction" for clarity.

In subsection (b)(5), the words "order" and "general order" are omitted as unnecessary. The words "The term 'cost' shall mean" are omitted as unnecessary. The words "in such manner and on such forms" are omitted in view of section 10321(a) of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11121, 11126, 11342, 11901 of this title; title 45 sections 744, 916.

§ 11126. Distribution of coal cars

(a) Subject to subsection (b) of this section, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall make a reasonable distribution of cars for transportation of coal among the coal mines served by it whether the mines are located on its line or are customarily dependent on it for car supply. If the supply of available cars does not equal the requirements of the mines, the carrier shall maintain and apply reasonable ratings of the mines and count each car furnished to or used by a mine for transportation of coal against that mine. However, coal cars supplied by shippers or receivers are deemed not to be a part of the carrier's fleet and are not counted in determining a question about distribution or car count under subsection (b) of this section or section 10102, 10501, 10701–10703, 10707, 10721(b), 10722(c)–(d), 10723(a)–(b)(1), 10724(a), 10741–10744, 10746, 10749, 10750, 10901, 10902, 10907, 11101, 11103–11105, 11121–11125, 11127, 11128(a)(1), 11501(c), 11505(a), 11702(a)(1), 11703, 11901(d)–(e)(2), 11902, 11903, 11905, 11907, 11915, or 11916 of this title.

(b)(1) In this subsection, "unit-train service" means the movement of a single shipment of coal of at least 4,500 tons, tendered to one carrier, on one bill of lading, at one origin, on one

day, and destined to one consignee, at one plant, at one destination, over one route.

(2) Unit-train service and non-unit-train service are deemed to be separate and distinct classes of service. A distinction shall be made between them and between the cars used in each class of service. A question about the reasonableness of, or discrimination in, the distribution of cars shall be determined within each class and not between them, notwithstanding a section referred to in subsection (a) of this section.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1424.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11126.....	49:1(12) (less 3d sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(12) (less 3d sentence); added Feb. 28, 1920, ch. 91, § 402, 41 Stat. 476; Feb. 5, 1976, Pub. L. 94-210, § 310, 90 Stat. 60.

In subsection (a), the word "shall" is substituted for "It shall also be the duty of" for clarity. The word "reasonable" is substituted for "just and reasonable" for consistency. See the revision note to section 10101 of the revised title. The words "During any period" are omitted as surplus. The words "and every" are omitted as surplus. The words "In applying the provisions of this paragraph" are omitted as surplus in view of the realigned structure of the section. The words "are deemed not to be" are substituted for "shall not be considered" for clarity. The words "under subsection (b) of this section or section 10102, 10501, 10701–10703, 10707, 10721(b), 10722(c)–(d), 10723(a)–(b)(1), 10724(a), 10741–10744, 10746, 10749, 10750, 10901, 10902, 10907, 11101, 11103–11105, 11121–11125, 11127, 11128(a)(1), 11501(c), 11505(a), 11702(a)(1), 11703, 11901(d)–(e)(2), 11902, 11903, 11905, 11907, 11915, or 11916 of this title" are substituted for "provision of section 1, 2, or 3 of this title, and of section 41, 42, or 43 of this title" to conform to the revised title.

In subsection (b)(2), the word "discrimination" is substituted for "discrimination or preference or prejudice or advantage or disadvantage" as being inclusive. See the revision note to section 10101 of the revised title. The words "a section referred to in subsection (a) of this section" are inserted for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11901 of this title.

§ 11127. Service of freight forwarders

(a)(1) When the Interstate Commerce Commission considers that a shortage of equipment, congestion of traffic, or other emergency requires immediate action at a place in the United States, the Commission may—

(A) suspend any service, equipment, or facilities requirement applicable to a freight forwarder under the jurisdiction of the Commission under subchapter IV of chapter 105 of this title;

(B) take action to promote transportation in the interest of the public and of commerce; and

(C) give directions for preference or priority in transportation, embargoes, or movement of traffic under permits.

(2) When the Commission considers that any such freight forwarder cannot properly serve the public by providing service for the traffic offered it, the Commission may require the handling, routing, and movement of that traffic in another manner to promote commerce and service to the public. When the equipment or facilities of another freight forwarder are required to be used, the freight forwarders may establish terms of compensation between themselves subject to subsection (b)(2) of this section.

(b)(1) Except as provided in paragraph (2) of this subsection, the Commission may act under this section on its own initiative or on application without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5.

(2) When the freight forwarders do not agree on the terms of compensation under this section, the Commission may establish the terms for them in a later proceeding.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1424.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11127.....	49:1020 (related to service).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 420 (related to service); added May 16, 1942, ch. 318, § 1, 56 Stat. 298.
	49:1(15) (related to service less last sentence), (16) (related to service less (b)).	Feb. 4, 1887, ch. 104, § 1(15) (related to service less last sentence), (16) (related to service less (b)), 24 Stat. 379; June 29, 1906, ch. 3591, § 1, 34 Stat. 584; May 29, 1917, ch. 23, § 1, 40 Stat. 101; restated Feb. 28, 1920, ch. 91, § 402, 41 Stat. 477; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Jan. 2, 1974, Pub. L. 93-236, § 601(e), 87 Stat. 1021.

Instead of integrating the words "freight forwarder" into sections 11123 and 11124 of the revised title, the section restates those provisions of 49:1(15) and (16) applicable to freight forwarders. Subsection (a)(2) restates 49:1(16) related to the movement of traffic. See ICC Gen. Coun. Op. No. 248–71, Oct. 1, 1971. The word "application" is substituted for "complaint" for consistency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11121, 11126, 11128, 11901 of this title.

§ 11128. War emergencies; embargoes imposed by carriers

(a)(1) When the President, during time of war or threatened war, certifies to the Interstate Commerce Commission that it is essential to the defense and security of the United States to give preference or priority to the movement of certain traffic, the Commission shall direct that preference or priority be given to that traffic under sections 11123(a)(4) and 11127(a)(1)(C) of this title.

(2) When the President, during time of war or threatened war, demands that preference and

precedence be given to the transportation of troops and material of war over all other traffic, all carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title shall adopt every means within their control to facilitate and expedite the military traffic.

(b) An embargo imposed by any such carrier does not apply to shipments consigned to agents of the United States Government for its use. The carrier shall deliver those shipments as promptly as possible.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1425.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11128(a)(1).	49:1(15) (last sentence).	Feb. 4, 1887, ch. 104, § 1(15) (last sentence), 24 Stat. 379; May 29, 1917, ch. 23, § 1, 40 Stat. 101; restated Feb. 28, 1920, ch. 91, § 402, 41 Stat. 476; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
11128(a)(2), (b).	49:6(8).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 6(8); added June 29, 1906, ch. 3591, § 2, 34 Stat. 586; Aug. 29, 1916, ch. 417, § 1, 39 Stat. 604; Feb. 28, 1920, ch. 91, § 409, 41 Stat. 483.

In subsection (a)(1), the cross reference to section 11123(a)(4) of the revised title is substituted for the words "power herein conferred" for clarity. The cross reference to section 11127(a)(1)(C) is inserted in view of that section's applicability to freight forwarders under 49:1020.

In subsections (a)(2) and (b), the words "And in time of peace" are omitted as unnecessary in view of subsection (a) of this section. The words "imposed by any such carrier" are inserted for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11121, 11126, 11901 of this title.

SUBCHAPTER III—REPORTS AND RECORDS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 11348, 11901, 11909 of this title.

§ 11141. Definitions

In this subchapter—

(1) "carrier", "broker", and "lessor" include a receiver or trustee of a carrier (except a freight forwarder), broker, and lessor, respectively.

(2) "lessor" means a person owning a railroad, water line, or a pipeline that is leased to and operated by a carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, and a person leasing a right to operate as a motor carrier or water carrier to another.

(3) "association" means an organization maintained—

(A) by or in the interest of a group of carriers (except water carriers) or brokers providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title that performs a service, or engages in activities, related to transportation under this subtitle; or

(B) only by water carriers providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title that engages in activities related to the fixing of rates, publication of classifications, or filing of tariffs by water carriers.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1425.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11141.....	49:20(8).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 20(8); added Sept. 18, 1940, ch. 722, § 13(a), 54 Stat. 919; restated Aug. 2, 1949, ch. 379, § 9, 63 Stat. 486.
	49:320(e).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 220(e); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 563; Sept. 18, 1940, ch. 722, § 24, 54 Stat. 927; Aug. 2, 1949, ch. 379, § 13, 63 Stat. 487.
	49:913(h).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 313 (less (a)-(g)); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 945; restated Aug. 2, 1949, ch. 379, § 18, 63 Stat. 489.
	49:1012(f).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 412(f); added May 16, 1942, ch. 318, § 1, 56 Stat. 295; restated Aug. 2, 1949, ch. 379, § 22, 63 Stat. 489.

The section consolidates and restates the source provisions for clarity. The words "'keep' and 'kept' shall be construed to mean made, prepared or compiled, as well as retained" are omitted as unnecessary in view of the restatement. The word "association" is omitted from the text of the definition to eliminate redundancy. The word "tariffs" is substituted for "schedules" for consistency and in view of the definition of "tariff" in section 10102 of the revised title.

§ 11142. Uniform accounting systems

(a) The Interstate Commerce Commission shall prescribe, for rail carriers providing transportation subject to this subtitle, a uniform cost and revenue accounting and reporting system (1) under generally accepted accounting principles uniformly applied to those carriers and (2) after consideration of appropriate economic principles. To the extent possible, the system shall be cost effective, without duplication, and compatible with the present and desired managerial and responsibility accounting requirements of those carriers. The Commission may prescribe a uniform accounting system for classes of carriers providing, and brokers for, transportation subject to the jurisdiction of the Commission under subchapters II, III, and IV of chapter 105 of this title.

(b)(1) To obtain the most accurate cost and revenue information about light density rail-

road lines, main line operations, factors used to establish rates, and other regulatory areas of responsibility, the Commission shall identify and define, for each facet of rail transportation—

(A) operating and nonoperating revenue accounts;

(B) direct cost accounts for determining fixed and variable costs for materials, labor, and overhead components of operating expenses and the assignment of those costs to various functions, services, or activities, including maintenance-of-way, maintenance of equipment (locomotive and car), transportation (train, yard and station, and accessorial services), and general and administrative expenses; and

(C) indirect cost accounts for determining fixed, common, joint, and constant costs, including the cost of capital, and the method for the assignment of those costs to various functions, services, or activities.

(2) Reports required under the rail accounting system must include information considered appropriate for disclosure under generally accepted accounting principles or the requirements of the Commission or of the Securities and Exchange Commission. To the extent possible, the Interstate Commerce Commission should require that information be reported or disclosed only for essential regulatory purposes including rate change requests, abandonment of facilities requests, responsibility for peaks in demand, cost of service, and issuance of securities.

(3) The Commission shall review the rail accounting system periodically, but at least once every 5th year after 1977, and revise the system as necessary to conform it to generally accepted accounting principles compatible with the managerial and responsibility accounting requirements of those carriers and to keep it in compliance with this section.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1425.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11142(a) (less last sentence).	49:20(3)(a), (c) (2d sentence).	Feb. 4, 1887, ch. 104, § 20(3) (less (e)), 24 Stat. 386; June 29, 1906, ch. 3591, § 7, 34 Stat. 593; Feb. 28, 1920, ch. 91, § 434, 41 Stat. 493; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 13(a), 54 Stat. 916; restated Feb. 5, 1976, Pub. L. 94-210, § 307, 90 Stat. 55.
11142(a) (last sentence).	49:304(a)(1) (related to accounts), (2) (related to accounts), (4) (related to accounts).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(1) (related to accounts), (2) (related to accounts), (4) (related to accounts); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 546.
	49:913(c).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 313(c); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 944.
	49:1012(a) (3d sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 412(a) (3d sentence); added May 16, 1942, ch. 318, § 1, 56 Stat. 294.
11142(b).....	49:20(3) (less (a), (c) (2d sentence), and (e)).	

In subsection (a), the words "not later than June 30, 1977," and the last 2 sentences of 49:20(3)(a) are omitted as executed. The words "shall prescribe" are substituted for "shall, . . . issue regulations and procedures prescribing" for clarity. The last sentence is a restatement of the relevant provisions of 49:304(a) (1), (2), and (4), 49:913(c), and 1012(c). The words "in its discretion, for purposes of administration of the provisions of this chapter" in 49:1012(c), and "in its discretion, for the purpose of enabling it the better to carry out the purposes of this chapter" in 49:913(c), are omitted as surplus. The words "motor common carrier", "motor contract carrier", "water carriers", and "freight forwarders" are omitted as unnecessary since the word "carrier" encompasses all of them in the subtitle. The words "period of time within which they shall have such uniform system of accounts," are omitted as executed. The words "and the manner in which such accounts shall be kept" are omitted as surplus. The words "uniform accounting system" are substituted for "uniform system of accounts" for clarity. The words "The accounting system established pursuant to this paragraph" in 49:20(3)(c) are omitted from subsection (a) as surplus. The words "notwithstanding any other provision of this section" are omitted as unnecessary.

In subsection (b)(1), the words "To obtain the most accurate cost and revenue information about" are substituted for "In order to assure that the most accurate cost and revenue data can be obtained with respect to" for clarity. The words "fair and reasonable" are omitted as unnecessary in view of section 10701 of the revised title.

In subsection (b)(2), the words "must include information considered appropriate for disclosure" are substituted for "shall include any disclosure considered appropriate" for clarity. The words "notwithstanding any other provision of this section" are omitted as surplus in view of the phrase "to the extent possible". The words "attempt" and "otherwise" are omitted as surplus.

In subsection (b)(3), the words "In order that the accounting system established pursuant to this paragraph continue" are omitted as surplus in view of the realignment of 49:20(3)(d). The words "every 5th year after 1977" are inserted in view of 49:20(3)(a) for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10341 of this title.

§ 11143. Depreciation charges

The Interstate Commerce Commission shall, for a class of carriers providing transportation subject to its jurisdiction under subchapter I or III of chapter 105 of this title, and may, for a class of carriers providing transportation subject to its jurisdiction under subchapter II of that chapter, prescribe, and change when necessary, those classes of property for which depreciation charges may be included under operating expenses and a rate of depreciation that may be charged to a class of property. The

Commission may classify those carriers for purposes of this section. A carrier for whom depreciation charges and rates of depreciation are in effect under this section for any class of property may not—

(1) charge to operating expenses a depreciation charge on a class of property other than that prescribed by the Commission;

(2) charge another rate of depreciation; or

(3) include other depreciation charges in operating expenses.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1426.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11143.....	49:20(4).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 20(4); added June 29, 1906, ch. 3591, § 7, 34 Stat. 593; Feb. 28, 1920, ch. 91, § 434, 41 Stat. 493; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 13(a), 54 Stat. 917.
	49:320(c).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 220(c); added Sept. 18, 1940, ch. 722, § 24, 54 Stat. 926.
	49:913(d).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 313(d); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 945.

The section restates the source provisions for clarity. The words "change when necessary" are substituted for "when it deems necessary, modify" for clarity. The words "other than that prescribed therefor by the Commission . . . in any form whatsoever other than as prescribed by the Commission" are omitted as surplus.

§ 11144. Records: form; inspection; preservation

(a) The Interstate Commerce Commission may prescribe the form of records required to be prepared or compiled under this subchapter—

(1) by carriers, brokers, and lessors, including records related to movement of traffic and receipts and expenditures of money; and

(2) by persons furnishing cars or protective service against heat or cold to or for a rail or express carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title to the extent related to those cars or that service.

(b) The Commission, or an employee designated by the Commission, may on demand and display of proper credentials—

(1) inspect and examine the lands, buildings, and equipment of a carrier, broker, or lessor; and

(2) inspect and copy any record of—

(A) a carrier, broker, lessor, or association;

(B) a person controlling, controlled by, or under common control with a carrier if the Commission considers inspection relevant to that person's relation to, or transaction with, that carrier; and

(C) a person furnishing cars or protective service against heat or cold to or for a rail or express carrier if the Commission prescribed the form of that record.

(c) The Commission, or an employee designated by the Commission, may, during normal business hours, inspect and copy any record related to motor vehicle transportation of a cooperative association or federation of cooperative associations required to notify the Commission under section 10526(a)(5) of this title. However, the Commission may not prescribe the form of records to be maintained by a cooperative association or federation of cooperative associations.

(d) The Commission may prescribe the time period during which operating, accounting, and financial records must be preserved by carriers, brokers, lessors, and persons furnishing cars or protective services.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1426.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11144(a).....	49:20(5) (1st sentence), (6) (2d sentence, 1st cl.).	Feb. 4, 1887, ch. 104, § 20(5), (6) (less 2d sentence 2d cl.) (7)(b) (proviso), 24 Stat. 386; June 29, 1906, ch. 3591, § 7, 34 Stat. 594; Feb. 25, 1909, ch. 193, § 1, 35 Stat. 648; Feb. 28, 1920, ch. 91, § 435, 41 Stat. 493; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 13(a), 54 Stat. 917; Aug. 2, 1949, ch. 379, § 8, 63 Stat. 486.
	49:320(d) (1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 220(d); added Sept. 18, 1940, ch. 722, § 24, 54 Stat. 926; Aug. 2, 1949, ch. 379, § 12, 63 Stat. 487.
	49:913(e).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 313(e), (f), (g); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 945; Aug. 2, 1949, ch. 379, § 17, 63 Stat. 489.
	49:1012(c) (less 32d–44th words).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 412(c), (d), (e); added May 16, 1942, ch. 318, § 1, 56 Stat. 295; Aug. 2, 1949, ch. 379, § 21, 63 Stat. 489.
11144(b).....	49:20(5) (less 1st sentence), (6) (less 2d sentence).	
	49:311(d) (related to inspection).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 211(d); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 554.
	49:320(d) (3d and 4th sentences).	
	49:913(f).	
	49:1012(d).	

HISTORICAL AND REVISION NOTES—Continued

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11144(c).....	49:320(g).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 220(g); added July 26, 1968, Pub. L. 90-433, § 2, 82 Stat. 449.
11144(d).....	49:20(7)(b) (proviso). 49:311(d) (related to time period). 49:320(d) (less 1st, 3d, and 4th sentences). 49:913(g). 49:1012(c) (32d-44th words), (e).	

In the section, the word "records" is substituted for "accounts", "records", "books", "correspondence", "memoranda", and "other documents" for consistency in view of section 552a of title 5.

In subsection (a), the words "in its discretion . . . of any and all" are omitted as surplus. The words "by freight forwarders, with respect to service subject to this chapter" are omitted as unnecessary in view of subchapter IV of chapter 105 of the revised title. The last clauses of 49:20(5) (1st sentence), 320(d) (1st sentence), 913(e), and 1012(c) are omitted as unnecessary in view of subchapter II of chapter 103 and chapter 119 of the revised title. The words "required to be prepared or compiled under this subchapter" are inserted for clarity.

In subsection (b), the words "an employee designated by the Commission" are substituted for "any duly authorized special agent, accountant, or examiner thereof" for clarity. The word "may" is substituted for "shall at all times have authority" for clarity. The words "freight forwarder" are omitted as unnecessary in view of subchapter IV of chapter 105 of the revised title. The last sentences (less the last 7 words) of 49:20(5), (6), 320(d), 913(f), and 1012(d) are omitted as surplus. The text of 49:311(d) is omitted as surplus.

In subsection (c), the words "an employee designated by the Commission" are substituted for "its duly authorized special agents, accountants, or examiners" for clarity. The word "may" is substituted for "shall . . . have access to and authority" for clarity. The word "record" is substituted for "accounts, records, or memorandums" in 49:320(g) (proviso) for consistency in view of section 552a of title 5. The words "under its orders" are omitted as surplus. The word "related" is substituted for "pertaining" for consistency. The words "to notify" are substituted for "to give notice" for clarity.

In subsection (d), the words "may prescribe" are substituted for "may in its discretion issue orders specifying" in 49:20(7)(b) (proviso) and for "may issue orders specifying" in 49:320(d) (2d sentence), 913(g), and 1012(e), for clarity. The text of 49:311(d) (related to time period) and 1012(c) (32d-44th words) is omitted as unnecessary in view of this restatement. The word "record" is substituted for "papers, records, books, blanks, tickets, stubs, correspondence, or documents" for consistency in view of section 552a of title 5. The words "time period during which . . . must be preserved" are substituted for "as may, after a reasonable time, be destroyed, and prescribing the length of time the same shall be preserved" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11901, 11910 of this title.

§ 11145. Reports by carriers, lessors, and associations

(a) The Interstate Commerce Commission may require—

(1) carriers, brokers, lessors, and associations, or classes of them as the Commission may prescribe, to file annual, periodic, and special reports with the Commission containing answers to questions asked by it; and

(2) a person furnishing cars or protective services against heat or cold to a rail or express carrier providing transportation subject to this subtitle, to file reports with the Commission containing answers to questions about those cars or services.

(b)(1) An annual report shall contain an account, in as much detail as the Commission may require, of the affairs of the carrier, broker, lessor, or association for the 12-month period ending on the 31st day of December of each year. However, when an annual report is made by a motor carrier, a broker, or a lessor or an association maintained by or interested in one of them, the person making the report may elect to make it for the 13-month period accounting year ending at the close of one of the last 7 days of each calendar year if the books of the person making the report are kept by that person on the basis of that accounting year.

(2) An annual report shall be filed with the Commission by the end of the 3d month after the end of the year for which the report is made unless the Commission extends the filing date or changes the period covered by the report. The annual report and, if the Commission requires, any other report made under this section, shall be made under oath.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1427.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11145.....	49:20(1), (2), (6) (2d sentence 2d cl.).	Feb. 4, 1887, ch. 104, § 20(1), (2), (6) (2d sentence 2d cl.), 24 Stat. 386; June 29, 1906, ch. 3591, § 7, 34 Stat. 593; June 18, 1910, ch. 309, § 14, 36 Stat. 555; Feb. 28, 1920, ch. 91, § 434, 41 Stat. 493; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 13(a), 54 Stat. 916; Aug. 2, 1949, ch. 379, § 7, 63 Stat. 486.
	49:320(a) (1st and 2d sentences), (b).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 220(a) (1st and 2d sentences), (b); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 563; Sept. 18, 1940, ch. 722, § 24, 54 Stat. 926; Aug. 2, 1949, ch. 379, § 11, 63 Stat. 487; July 7, 1972, Pub. L. 92-338, § 1, 86 Stat. 423.
	49:913(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 313(a); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 944; Aug. 2, 1949, ch. 379, § 16, 63 Stat. 488.
	49:1012(a) (1st and 2d sentences), (b).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 412(a) (1st and 2d sentences), (b); added May 16, 1942, ch. 318, § 1, 56 Stat. 294; Aug. 2, 1949, ch. 379, § 20, 63 Stat. 489.

In subsection (a), the words "(as defined in this section)" are omitted as unnecessary. The words "to file" are substituted for "to submit" for clarity. The words "specific and full, true, and correct" are omitted as unnecessary in view of section 11709 of the revised title. The words "may deem information to be necessary" are omitted as surplus. The words "as aforesaid" in 49:20(6) (2d sentence 2d clause) are omitted as surplus. The words "it may deem proper for any of these purposes" are omitted as surplus.

In subsection (b), the words "office in Washington" are omitted as unnecessary in view of section 10307 of the revised title. The words "to prescribe the manner and form in which such reports shall be made" and "in such form and detail as may be prescribed by the Commission" are omitted as unnecessary in view of section 10321(a) of the revised title giving the Commission general authority to carry out the subtitle and to prescribe regulations.

CHAPTER 113—FINANCE

SUBCHAPTER I—CARRIER SECURITIES, EQUIPMENT TRUSTS, AND SECURITY INTERESTS

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SUBCHAPTER I—CARRIER SECURITIES, EQUIPMENT TRUSTS, AND SECURITY INTERESTS

§ 11301. Authority of certain carriers to issue securities and assume obligations and liabilities

(a) In this section—

(1) "carrier" means a rail or sleeping car carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title (except a street, suburban, or interurban electric railway not operated as a part of a general railroad system of transportation), and a corporation organized to provide transportation by rail carrier subject to that subchapter.

(2) "security" means a share of capital stock, a bond, or other evidence of interest in, or indebtedness of, a carrier.

(b)(1) Subject to subchapter I of chapter 2A, chapter 2B, and subchapter I of chapter 2D of title 15, the Commission has exclusive jurisdiction to approve the issuance of securities by a carrier and the assumption of an obligation or liability related to the securities of another person by a carrier. A carrier may not issue securities or assume those obligations or liabilities without the approval of the Commission. No other approval is required. A security issued or obligation or liability assumed by a carrier in violation of this subsection or in violation of a condition prescribed by the Commission under subsection (d) of this section is void. However, a security or obligation issued or assumed under authority of this section is not void for failure to comply with a procedural requirement of this section or other matter preceding entry of the order of the Commission.

(2) Paragraph (1) of this subsection does not apply to notes issued by a carrier if the notes mature not more than 2 years after their date of issue and total (with all then outstanding notes having a maturity of not more than 2 years) not more than 5 percent of the par value of the then outstanding securities of that carrier. If the securities do not have a par value, the par value of those securities is the fair market value on the date of issue. Paragraph (1) of this subsection applies to a subsequent funding of notes referred to in this paragraph.

(c)(1) A carrier issuing notes referred to in subsection (b)(2) of this section shall file a certificate of notification with the Commission by the end of the 10th day after they are issued. That notification must include substantially the same matter required by the Commission for an application for authority to issue other securities.

(2) A carrier that pledges, repledges, or otherwise disposes of a security referred to in an application for authority or a certificate of notification under this section as pledged or held unencumbered in the treasury of that carrier shall file a certificate of notification with the Commission by the end of the 10th day after it disposes of the security.

(d)(1) The Commission may begin a proceeding under this section on application of a carrier. Before taking final action, the Commission

must investigate the purpose and use of the securities issue or assumption and the proceeds from it. The Commission may approve any part of the application and may require the carrier to comply with appropriate conditions. After an application is approved under this section, the Commission may change a condition previously imposed or use that may be made of the securities or proceeds for good cause shown subject to the requirements of this section. The Commission may approve an application under this section only when it finds that the securities issue or assumption—

(A) is for a lawful object within the corporate purpose of the carrier and reasonably appropriate for that purpose;

(B) is compatible with the public interest;

(C) is appropriate for or consistent with the proper performance by the carrier of service to the public as a common carrier; and

(D) will not impair the financial ability of the carrier to provide the service.

(2) An application or certificate must be made under oath and signed and filed for the carrier by a designated executive officer who knows the matters stated in the application or certificate. On receipt of an application of a carrier under this section, the Commission shall have a copy of the application served on the chief executive officer of each State in which that carrier operates. The appropriate authorities of those States are entitled to be admitted as parties to a proceeding under this section to represent the rights and interests of their people and States.

(e) The Commission shall require a carrier that issues securities, including notes, under this section to submit reports to it. The reports must identify the disposition of those securities and the application of the proceeds from their disposition.

(f) This section does not imply a guaranty or obligation of those securities by the United States Government. This section does not apply to securities issued or obligations or liabilities assumed by the United States Government, a State, or an instrumentality or political subdivision of one of them.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1428.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11301(a)(1).	49:20a(1).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 20a (less (11) 2d, 3d, and 4th sentences, and (12)); added Feb. 28, 1920, Ch. 91, § 439, 41 Stat. 494; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Aug. 2, 1949, ch. 487, § 10, 63 Stat. 487; July 24, 1965, Pub. L. 89–86, § 1, 79 Stat. 263.
11301(a)(2).	49:20a(2) (1st sentence 10th–35th words).	
11301(b)(1).	49:20a(2) (1st sentence less 10th–35th and 73d–136th words and last sentence), (7), (11) (1st sentence).	

HISTORICAL AND REVISION NOTES—Continued

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11301(b)(2).	49:20a(9) (1st and 2d sentences and last sentence proviso).	
11301(c)(1).	49:20a(9) (less 1st and 2d sentences and last sentence proviso).	
11301(c)(2).	49:20a(5).	
11301(d).....	49:20a(2) (1st sentence 73d–136th words and last sentence words before proviso), (3), (4), (6).	
11301(e).....	49:20a(10).	
11301(f).....	49:20a(2) (last sentence proviso), (8).	

In subsection (a)(1), the words "As used . . . the term" are omitted as surplus. The words "to provide" are substituted for "for the purpose of engaging" for clarity. The word "steam" is omitted as surplus in view of 49:1(18) and 1a(1).

In subsection (a)(2), the words "(hereinafter in this section collectively termed 'securities')" are omitted as unnecessary in view of the restatement.

In subsection (b)(1), the words "Subject to subchapter I of chapter 2A, chapter 2B, and subchapter I of chapter 2D of title 15" are added to reflect the concurrent jurisdiction established under section 308 of the Railroad Revitalization and Regulatory Reform Act of 1976. The word "exclusive" is substituted for "exclusive and plenary" because it is inclusive. The words "No other approval is required" are substituted for "and a carrier may issue securities and assume obligations or liabilities in accordance with the provisions of the section without securing approval other than as specified herein" for clarity and consistency because section 308 of that Act did not extend concurrent jurisdiction to the States. The words "may not" are substituted for "It shall be unlawful for" for clarity. The words "issue securities" are added in view of the restatement. The words "Lessor, lessee, guarantor, indorser, surety, or otherwise" are omitted as surplus. The words "natural or artificial" are omitted as surplus in view of the definition of "person" in section 10102 of the revised title. The words "even though permitted by the authority creating the carrier corporation" are omitted as surplus. The words "in violation of this subsection . . . is void" are substituted for "for which under the provisions of this section the authorization of the Commission is required, shall be void, if issued or assumed without such authorization therefor having first been obtained" in view of the restatement of 49:20a. The words "in violation of a condition prescribed by the Commission under subsection (d) of this section" are substituted for "contrary to any term or condition of such order of authorization as modified by any order supplemental thereto entered prior to such issuance or assumption" for clarity.

In subsection (b)(2), the words "Paragraph (1) of this subsection does not apply" are substituted for "The foregoing provisions of this section shall not apply" to conform to the restatement of 49:20a. The words "issued by a carrier if the notes" are substituted for "to be issued by the carrier maturing" for clarity. The words "date of issue" are substituted for "date thereof" for clarity. The word "together" is omitted as surplus. The words "not more than 2 years" are substituted for "of two years or less" for consistency. The word "if" is substituted for "In the case of" for clarity. The word "is" is substituted for "for the purposes of this paragraph shall be" to reflect the statement of fact. The words "Paragraph (1) of this section applies" are substituted for "the provisions of this section respecting other securities shall apply" for clarity.

In subsection (c)(1), the words "in such form as may from time to time be determined and prescribed by

the Commission" are omitted as unnecessary in view of section 10321(a) of the revised title. The words "must include substantially the same matter" are substituted for "setting forth as nearly as may be the same matters" for clarity in view of the power of the Commission to prescribe the contents of the notification under section 10321(a) of the revised title.

In subsection (c)(2), the words "otherwise disposes" are substituted for "sold . . . or otherwise disposed" as being inclusive. The words "pledges, repledges" are retained for clarity. The words "referred to in" are substituted for "set forth and described in" for clarity in view of the further identification of those securities as being "pledged or held unencumbered in the treasury". The words "subsequent to the filing of such application or certificate" are omitted as unnecessary in view of the restatement. The words "by the end of the 10th day after it disposes" are substituted for "within ten days after such sale, pledge, repledge, or other disposition" for clarity and consistency. The words "to that effect, setting forth therein all such facts as may be required by the Commission" are omitted as unnecessary in view of the power of the Commission to prescribe the contents of the notification under subsection (d) of the revised section.

In subsection (d)(1), the first sentence is added for clarity and substituted for the last sentence of 49:20a(6) in view of subchapter II of chapter 5 of title 5. The words "Before taking final action" are substituted for "the Commission by order" in 49:20a(2) for consistency. The 3d and 4th sentences are substituted for 49:20a(3) for clarity in view of subchapter II of chapter 5 of title 5 and subchapter II of chapter 103 of the revised title. The words "for a lawful object within the corporate purpose of the carrier and reasonably appropriate for that purpose" are substituted for "is for some lawful object within its corporate purposes . . . and (b) is reasonably necessary and appropriate for such purpose" for clarity. The word "appropriate" is substituted for "necessary and appropriate" as being more inclusive.

In subsection (d)(2), the words "Every application for authority shall be made in such form and contain such matters as the Commission may prescribe" are omitted in view of section 10321(a) of the revised title. The words "executive officer who knows the matters stated in" are substituted for "its president, a vice president, auditor, comptroller, or other executive officer having knowledge of the matters therein set forth" as being more inclusive and for clarity. The word "duly" is omitted as surplus. The words "application of a carrier under this section" are substituted for "application for authority" in 49:20a(5) for clarity. The words "shall have a copy of the application served on the chief executive officer" are substituted for "shall cause notice thereof to be given and a copy filed with the governor" for clarity. The words "The appropriate authorities of those States" are substituted for "The railroad commissions, public service, or utilities commissions, or other appropriate State authorities of the State" as being more inclusive. The words "are entitled" are substituted for "shall have the right" for clarity. The words "to be admitted as parties to a proceeding under this section" are substituted for "to make before the Commission such representations as they may deem just and proper" for clarity in view of subchapter II of chapter 5 of title 5. The words "to represent the rights and interests of their people and States" are substituted for "for preserving and conserving the rights and interests of their people and the States, respectively, involved in such proceedings" for clarity.

In subsection (e), the word "reports" is substituted for "periodical or special reports" as being more inclusive. The words "The reports must identify" are substituted for "which shall show" for clarity.

In subsection (f), the words "This section does not" are substituted for "nothing herein shall be construed" and "*Provided*, That nothing in this section is to be construed as applying" in 49:20a (8) and (2), respectively, for clarity. The words "political subdivision" are substituted for "political subdivision or municipal corporation" as being more inclusive.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11302, 11322, 11348, 11361, 11362, 11367, 11709, 11911 of this title; title 45 sections 791, 830.

§ 11302. Issuance of securities and assumption of obligations and liabilities by motor carriers

(a) Except as provided in this section, section 11301 of this title applies to—

(1) motor carriers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title;

(2) corporations organized to provide transportation as carriers subject to the jurisdiction of the Commission under that subchapter; and

(3) corporations authorized by the Commission to acquire control of at least one motor carrier subject to its jurisdiction under that subchapter.

(b) Section 11301 of this title does not apply when the total value of capital stock (or principal amount of other securities to be issued) and the value of capital stock and principal amount of other securities then outstanding is not more than $1,000,000, or to notes of a maturity of not more than 2 years that aggregate not more than $200,000. Notes that, with other outstanding notes of a maturity of not more than 2 years, aggregate that amount may be issued without regard to the percentage limitations applicable under section 11301(b)(2) of this title. The value of capital stock having no par value is the fair market value on the date of issue of that stock, and the value of capital stock that has a par value is the fair market value on the date of issue or the par value, whichever is greater.

(c) This section does not apply to the United States Government, a State, or an instrumentality or political subdivision of one of them.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1430.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11302.....	49:314 (related to issuance of securities).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 214 (related to issuance of securities); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 557; restated June 29, 1938, ch. 811, § 15, 52 Stat. 1240; Sept. 18, 1940, ch. 722, § 22(a), 54 Stat. 924; July 10, 1952, ch. 648, § 1, 66 Stat. 542; Sept. 7, 1957, Pub. L. 85-309, § 1, 71 Stat. 631; July 24, 1965, Pub. L. 89-86, § 2, 79 Stat. 263; Feb. 5, 1976, Pub. L. 94-210, § 308(a)(3), 90 Stat. 57.

The words "at least one motor carrier" are substituted for "any such carrier, or of two or more such carriers" because they are inclusive. The words "section

11301 of this title applies" are substituted for "shall be subject to the provisions of paragraphs (2) to (11), inclusive, of section 20a of this title" for clarity and to conform to the style of the revised title. The words "does not apply" are substituted for "shall not apply" for clarity. The words "*Provided, however,* That said provisions . . . to such carriers or corporations" are omitted as surplus. The word "when" is substituted for "where" as being more appropriate. The words "Notes that, with other outstanding notes of a maturity of not more than 2 years, aggregate that amount may be issued without regard to the percentage limitations that would apply under section 11301(b)(2) of this title" are substituted for "which notes aggregating such amount including all outstanding obligations maturing in two years or less may be issued without reference to the percentage which said amounts bear to the total amount of outstanding securities" for clarity. The words "In the case of . . . and in the case of" are omitted as surplus. The words "District of Columbia" are omitted as unnecessary in view of the definition of "State" in section 10102 of the revised title. The words "political subdivision" are substituted for "political subdivision or municipal corporation" as being inclusive.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11348, 11911 of this title; title 15 sections 77c, 80a–3.

§ 11303. Equipment trusts: recordation; evidence of indebtedness

(a) A mortgage (other than a mortgage under the Ship Mortgage Act, 1920), lease, equipment trust agreement, conditional sales agreement, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of railroad cars, locomotives, or other rolling stock or vessels, intended for a use related to interstate commerce may be filed with the Interstate Commerce Commission. An assignment of a right or interest under one of those instruments and an amendment to that instrument or assignment including a release, discharge, or satisfaction of any part of it may also be filed with the Commission. The instrument, assignment, or amendment must be in writing, executed by the parties to it, and acknowledged or verified under Commission regulations. When filed under this section, that document is notice to, and enforceable against, all persons. A document filed under this section does not have to be filed, deposited, registered, or recorded under another law of the United States, a State (or its political subdivisions), or territory or possession of the United States, related to filing, deposit, registration, or recordation of those documents. This section does not change the Ship Mortgage Act, 1920.

(b) The Commission shall maintain a system for recording each document filed under subsection (a) of this section and mark each of them with a consecutive number and the date and hour of their recordation. The Commission shall maintain and keep open for public inspection an index of documents filed under that subsection. That index shall include the name and address of the principal debtors, trustees, guarantors, and other parties to those documents and may include other facts that will assist in determining the rights of the parties to those transactions.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1430.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11303.....	49:20c.	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 20c; added July 16, 1952, ch. 881, § 1, 66 Stat. 724.
	49:922a.	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 323; added Oct. 17, 1968, Pub. L. 90-586, § 1(2), 82 Stat. 1149.

In subsection (a), the words "intended for a use related to" are substituted for "used or intended for use in connection with" for clarity and as being more inclusive. The word "amendment" is substituted for "supplement or amendment" as being more inclusive. The words "any part of" are substituted for "in whole or in part" as being more precise. The words "The instrument . . . must be" are substituted for "provided such instrument . . . is" for clarity. The words "under Commission regulations" are substituted for "in accordance with such requirements as the Commission shall prescribe" in view of the general power to prescribe regulations under section 10321 of the revised title. The words "that document" are substituted for "any such instrument or other document" as being more inclusive. The word "valid" is omitted as surplus. The words "all persons" are substituted for "all persons including, without limitation, any purchaser from, or mortgagee, creditor, receiver, or trustee in bankruptcy of, the mortgagor, buyer, lessee, or bailee of the equipment covered thereby" as being more inclusive. The words "When filed" are substituted for "from and after the time . . . is so filed" to eliminate redundancy. The words "does not have to be filed" are substituted for "need not be otherwise filed" for clarity. The words "of America" are omitted as surplus. The word "district" is omitted as unnecessary in view of the definition of "State" in section 10102 of the revised title. The words "related to" are substituted for "respecting the" for clarity. The words "*Provided, however,* That" are omitted as surplus. The words "does not change" are substituted for "nothing contained in . . . shall, in any way, be construed to alter or amend" for clarity.

In subsection (b), the word "establish" is omitted as executed. The words "and mark each of them" are substituted for "and shall cause to be" for clarity. The word "mark" is substituted for "marked or stamped" as being more inclusive. The word "thereon" is omitted as surplus. The words "and may include other facts that will assist in determining" are substituted for "as well as such other facts as may be necessary to facilitate" for clarity.

REFERENCES IN TEXT

The Ship Mortgage Act, 1920, referred to in subsec. (a), is section 30 of act June 5, 1920, ch. 250, 41 Stat. 1000, as amended, which is classified generally to chapter 25 (§ 911 et seq.) of Title 46, Shipping. For complete classification of this Act to the Code, see section 984 of Title 46 and Tables.

§ 11304. Security interests in certain motor vehicles

(a) In this section—

(1) "motor vehicle" means a truck of rated capacity (gross vehicle weight) of at least 10,000 pounds, a highway tractor of rated capacity (gross combination weight) of at least 10,000 pounds, a property-carrying trailer or semitrailer with at least one load-carrying axle of at least 10,000 pounds, or a motor bus with a seating capacity of at least 10 individuals.

(2) "lien creditor" means a creditor having a lien on a motor vehicle and includes an assignee for benefit of creditors from the date of assignment, a trustee in bankruptcy from the date of filing of the petition in bankruptcy, and a receiver in equity from the date of appointment of the receiver.

(3) "security interest" means an interest (including an interest established by a conditional sales contract, mortgage, equipment trust, or other lien or title retention contract, or lease) in a motor vehicle when the interest secures payment or performance of an obligation.

(4) "perfection", as related to a security interest, means taking action (including public filing, recording, notation on a certificate of title, and possession of collateral by the secured party), or the existence of facts, required under law to make a security interest enforceable against general creditors and subsequent lien creditors of a debtor, but does not include compliance with requirements related only to the establishment of a valid security interest between the debtor and the secured party.

(b) A security interest in a motor vehicle owned by, or in the possession and use of, a carrier having a certificate or permit issued under section 10922 or 10923 of this title and owing payment or performance of an obligation secured by that security interest is perfected in all jurisdictions against all general, and subsequent lien, creditors of, and all persons taking a motor vehicle by sale (or taking or retaining a security interest in a motor vehicle) from, that carrier when—

(1) a certificate of title is issued for a motor vehicle under a law of a jurisdiction that requires or permits indication, on a certificate or title, of a security interest in the motor vehicle if the security interest is indicated on the certificate;

(2) a certificate of title has not been issued and the law of the State where the principal place of business of that carrier is located requires or permits public filing or recording of, or in relation to, that security interest if there has been such a public filing or recording; and

(3) a certificate of title has not been issued and the security interest cannot be perfected under paragraph (2) of this subsection, if the security interest has been perfected under the law (including the conflict of laws rules) of the State where the principal place of business of that carrier is located.

(c) This section does not affect a security interest perfected before January 1, 1959.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1431.)

AMENDMENT SUBSEQUENT TO MAY 15, 1978

Section 313(a)(3) of this title, from which subsec. (a)(2) of this section was derived, was amended by Pub. L. 95-598, title III, § 337(b), Nov. 6, 1978, 92 Stat. 2681, see section 313(a)(3) of this title. See also section 3(a) of Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1466, set out as a note preceding chapter 101 of this title.

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11304(a)(1).	49:313(a)(6).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 213; added Aug. 23, 1958, Pub. L. 85-728, § 1, 72 Stat. 812.
11304(a)(2).	49:313(a)(3).	
11303(a)(3).	49:313(a)(5).	
11304(a)(4).	49:313(a)(4).	
11304(b).....	49:313(a)(1), (2), (5), (7), (b), (c), (d).	
11304(c).....	49:313 (less (a)-(d)).	

The text of 49:313(a)(1), (2), and (7) is included in the text of subsection (b) of the revised section to eliminate unnecessary definitions. The words "District of Columbia" are omitted in view of the definition of "State" in section 10102 of the revised title.

In subsection (a)(1), the word "of" is substituted for "having a" for clarity. The words "at least 10,000 pounds" are substituted for "of ten thousand pounds or more" for clarity. The word "individuals" is substituted for "persons" as being more precise.

In subsection (a)(2), the words "having a lien on a motor vehicle" are substituted for "who has acquired a lien on the motor vehicle involved by attachment, levy, or the like" for clarity and as being more precise. The word "date" is substituted for "time" as being more precise.

In subsection (a)(3), the words "but not limited to" are omitted as surplus. The words "owned by, or the possession and use of which vehicle has been transferred to, a debtor carrier" are omitted as surplus. The words "when the interest secures" are substituted for "which interest secures" for clarity.

In subsection (a)(4), the words "taking action" are substituted for "the taking of the steps" as being more precise. The words "but not limited to" are omitted as surplus. The word "applicable" is omitted as unnecessary. The words "compliance with requirements related only to" are substituted for "any reference to compliance with requirements, if any, as to capacity, authority, form of instruments, value, consideration, good faith, and other matters which go only to" for clarity and as being more inclusive. The word "establishment" is substituted for "creation" as being more appropriate.

In the introductory matter in subsection (b), 49:313(a)(1) and (7) are restated for clarity. The words "carrier having a certificate or permit issued under section 10922 or 10923 of this title" are substituted for "common or contract carrier having a certificate of public convenience and necessity or permit issued under this Act" for clarity and to conform to the style of the revised title. The words "'debtor carrier' means" and "'purchaser' means" are omitted as surplus.

In subsection (b), the word "law" is substituted for "statute" as being more appropriate. The words "In the case of any security interest in a motor vehicle for which" are omitted as surplus. The word "and" is substituted for "(1) if" for clarity. The words "in relation to" are substituted for "with respect to" for clarity. The words "and (2)" are omitted as surplus. The words "perfection of such a security interest shall be governed by the law of" are omitted as unnecessary in view of the restatement. The words "as to general creditors and subsequent lien creditors" are omitted as surplus in view of subsection (a)(4) of the revised section. The words "of the United States" are omitted as unnecessary.

SUBCHAPTER II—OWNERSHIP

§ 11321. Limitation on ownership of certain water carriers

(a)(1) Notwithstanding sections 11343 and 11344 of this title, a carrier, or a person controlling, controlled by, or under common control with a rail, express, sleeping car, or pipeline carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may not own, operate, control, or have an interest in a water common carrier or vessel carrying property or passengers on a water route with which it does or may compete for traffic.

(2) The Commission may decide, after a full hearing, questions of fact related to competition or the possibility of competition under this subsection on application of a carrier. A carrier may file an application to determine whether an existing service violates this subsection and may request permission to continue operation of a vessel or that action be taken under subsection (b) of this section. The Commission may begin a proceeding under this subsection on its own initiative or on application of a shipper to investigate the operation of a vessel used by a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of that chapter if the carrier has not applied to the Commission and had the question of competition or the possibility of competition determined under this subsection.

(b) Notwithstanding subsection (a) of this section, the Commission may authorize a carrier providing transportation subject to the jurisdiction of the Commission under that subchapter to own, operate, control, or have an interest in a water common carrier or vessel that is not operated through the Panama Canal and with which the carrier does or may compete for traffic when the Commission finds that ownership, operation, control, or interest will still allow that water common carrier or vessel to be operated in the public interest advantageously to interstate commerce and that it will still allow competition, without reduction, on the water route in question. However, section 11343 of this title also applies to a transaction or interest under this subsection if the transaction or interest is within the scope of that section. The Commission may begin a proceeding under this subsection on application of a carrier. An authorization under this subsection is not necessary for a carrier that obtained an order of extension before September 18, 1940, under section 5(21) of the Interstate Commerce Act (37 Stat. 567), as amended, if the order is still in effect.

(c) The Commission may take action under this section only after a full hearing. An order entered as a result of the action may be conditioned on giving security for the payment of an amount of money or the discharge of an obligation that is required to be paid or discharged under that order.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1432.)

Historical and Revision Notes

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11321(a).....	49:5(15) (less words after semicolon), (16).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 5(15) (less words after semicolon), (16), (17); added Aug. 24, 1912, ch. 390, § 11 (first 2 pars.), 37 Stat. 566; Feb. 28, 1920, ch. 91, § 408, 41 Stat. 482; June 16, 1933, ch. 91, § 203, 48 Stat. 220; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 7, 54 Stat. 909; Feb. 5, 1976, Pub. L. 94-210, § 403, 90 Stat. 63, 66; Oct. 19, 1976, Pub. L. 94-555, § 220(i), 90 Stat. 2630.
11321(b).....	49:5(17).	
11321(c).....	49:51 (related to ownership).	Aug. 24, 1912, ch. 390, § 11 (last par.) (related to ownership), 37 Stat. 568.

In subsection (a)(1), the words "the provisions of" are omitted as surplus. The words "from and after the 1st day of July 1914" and "(after September 18, 1940)" are omitted as obsolete. The words "rail, express, sleeping car, or pipeline carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title" are substituted for "any carrier, as defined in section 1(3) of this title" for clarity and to conform to the restatement. The words "have an interest in" are substituted for "have any interest whatsoever (by stock ownership or otherwise, either directly, indirectly, through any holding company, or by stockholders or directors in common, or in any other manner)" as being more inclusive. The words "operated through the Panama Canal or elsewhere" are omitted as surplus. The words "with which it" are substituted for "with which such carrier aforesaid" for clarity. The words "on a water route" are substituted for "upon said water route or elsewhere" as being more inclusive.

In subsection (a)(2), the words "The Commission may decide" are substituted for "Jurisdiction is conferred on the Commission to determine" for clarity. The word "carrier" is substituted for "railroad company or other carrier" as being more inclusive. The words "to determine" are substituted for "for the purpose of determining" for clarity. The word "request" is substituted for "pray" as being more appropriate. The words "that action be taken under subsection (b) of this section" are substituted for "for an order under the provisions of paragraph (16) of this section" to conform to the revised section and for clarity in view of subchapter II of chapter 5 of title 5. The word "initiative" is substituted for "motion" for consistency. The word "investigate" is substituted for "inquiry into" for clarity. The word "if" is inserted in the last sentence for clarity. The last sentence of 49:5(16) is omitted as surplus in view of subchapter II of chapter 103 of the revised title and subchapter II of chapter 5 of title 5.

In subsection (b), the words "the Commission may" are substituted for "the Commission shall have authority" for clarity. The words "when the Commission finds" are substituted for "if the Commission shall find" for clarity. The words "will still allow" are substituted for "will not prevent" for clarity. The words "advantageously to interstate commerce" are substituted for "and with advantage to the convenience and commerce of the people" for clarity. The words "will still allow competition, without reduction," are substi-

tuted for "will not exclude, prevent, or reduce competition" for clarity. The words "in question" are substituted for "under consideration" for clarity. The 2d sentence restates 49:5(17) (1st proviso) for clarity and to conform to the revised title. The 3d sentence is substituted for "upon application of any carrier, . . . and after hearing, by order" for clarity in view of subchapter II of chapter 5 of title 5. The words "An authorization under this subsection is not necessary" are substituted for "*And provided further*, That no such authorization shall be necessary" for clarity. The words "having the ownership, lease, operation, control, or interest" in 49:5(17) (2d proviso) are omitted as surplus. The words "under section 5(21) of the Interstate Commerce Act (37 Stat. 567), as amended," are substituted for "under the provisions of paragraph (21) of this section, as in effect prior to such date" to conform to the revised title. Paragraph (21) of that act was enacted by the act of August 24, 1912, ch. 390, § 11, 37 Stat. 567, made a part of section 5 of the Interstate Commerce Act by section 408 of the act of February 28, 1920, ch. 91, 41 Stat. 482, and was renumbered as paragraph (21) by section 203 of the act of June 16, 1933, ch. 91, 48 Stat. 220. The words "if the order" are substituted for "and such order" for clarity.

In subsection (c), the words "upon formal complaint or in proceedings instituted by the Commission of its own motion" are omitted as surplus in view of chapter 117 of the revised title. The words "The orders provided for in said paragraphs shall be served in the same manner and enforced by the same penalties and proceedings as are the orders of the Commission made under the provisions of section 15 of this title" are omitted as unnecessary in view of the restatement.

REFERENCES IN TEXT

Section 5(21) of the Interstate Commerce Act (37 Stat. 567), referred to in subsec. (b), was classified to section 5(21) of this title. Par. (21) was omitted in the general amendment of section 5 by act Sept. 18, 1940, ch. 722, title I, § 7, 54 Stat. 905. For further details, see Historical and Revision note set out above.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11323, 11914 of this title.

§ 11322. Restrictions on officers and directors

(a) A person may hold the position of officer or director of more than one carrier as defined in section 11301(a)(1) of this title only when authorized by the Interstate Commerce Commission. The Commission may authorize a person to hold the position of officer or director of more than one of those carriers when public or private interests will not be adversely affected.

(b) An officer or director of a carrier referred to in subsection (a) of this section may not—

(1) receive, for the benefit of that officer or director, a thing of value in relation to the negotiation, hypothecation, or sale of a security issued or to be issued by that carrier;

(2) share in the proceeds from the negotiation, hypothecation, or sale of a security issued or to be issued by that carrier; or

(3) participate in making or paying dividends of an operating carrier from funds included in a capital account.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1433.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11322.....	49:20a(12) (less last sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 20a(12) (less last sentence); added Feb. 28, 1920, ch. 91, § 439, 41 Stat. 496; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.

In subsection (a), the words "may . . . only when" are substituted for "It shall be unlawful for . . . unless" for clarity. The words "as defined in section 11301(a)(1)" are added for clarity. The word "authorized" is substituted for "such holding shall have been authorized" for clarity. The words "by order" are omitted as unnecessary in view of subchapter II of chapter 5 of title 5. The word "when" is substituted for "upon due showing" for clarity. The words "in form and manner prescribed by the Commission" are omitted as unnecessary in view of the power of the Commission to carry out the revised subtitle and to prescribe regulations under section 10321 of the revised title.

In subsection (b), the words "thing of value" are substituted for "any money or thing of value" as being more inclusive. The words "proceeds from the negotiation, hypothecation, or sale of a security issued or to be issued by that carrier" are substituted for "proceeds thereof" for clarity and consistency. The word "properly" is omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11348, 11911 of this title.

§ 11323. Limitation on ownership of other carriers by freight forwarders

(a) A freight forwarder, or a person controlling, controlled by, or under common control with a freight forwarder, providing service subject to the jurisdiction of the Interstate Commerce Commission under subchapter IV of chapter 105 of this title, may not acquire control of a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of that chapter. However, this subsection does not prohibit a carrier providing transportation under subchapter I, II, or III of chapter 105 from acquiring control of another such carrier under subchapter III of this chapter but subject to section 11321.

(b) A director, officer, employee, or agent of a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title or a person controlling, controlled by, or under common control with one of those carriers, may not, for that person's pecuniary benefit, own, lease, control, or hold stock in a freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of that chapter. However, this subsection does not prohibit the holding of a director's qualifying shares of stock from which no personal pecuniary benefit is derived by the holder.

(c) This subtitle does not prohibit a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title

or a person controlling, controlled by, or under common control with one of those carriers from controlling a freight forwarder. When that control exists, a rate, classification, rule, or practice of one of those carriers may not be found to be unlawful because of the relationship.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1433.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11323(a).....	49:1011(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 411(a), (c), (g); added May 16, 1942, ch. 318, § 1, 56 Stat. 293.
11323(b).....	49:1011(c).	
11323(c).....	49:1011(g).	

In subsection (a), the words "may not" are substituted for "It shall be unlawful" for clarity. The word "However" is substituted for "except that" for consistency. Paragraph (2) of 49:1011(a) is omitted as obsolete.

In subsection (b), the words "After the expiration of six months from May 16, 1942," are omitted as executed. The words "may not" are substituted for "it shall be unlawful" for clarity. The words "for that person's" are substituted for "in his or her own personal" for clarity. The word "benefit" is substituted for "interest" for consistency. The words "does not prohibit" are substituted for "shall not forbid or preclude" for clarity.

In subsection (c), the words "This subtitle does not prohibit" are substituted for "Nothing in this Act shall be construed to make it unlawful" for clarity. The words "When that control exists" are substituted for "and, in any case where such control exists" for clarity. The words "from controlling" are substituted for "to have or to acquire control of" for clarity. The words "of one of those carriers" are substituted for "of the common carrier or of any freight forwarder controlled by such common carrier, or under common control with such common carrier" for clarity. The words "may not be" are substituted for "no . . . shall be" for clarity. The words "under any provision of this Act" are omitted as surplus. The words "between such common carrier and such freight forwarder" are omitted as unnecessary.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11702, 11708 of this title.

SUBCHAPTER III—COMBINATIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 10362, 10706, 10907, 10931, 10932, 11323, 11702 of this title.

§ 11341. Scope of authority

(a) The authority of the Interstate Commerce Commission under this subchapter is exclusive. A carrier or corporation participating in or resulting from a transaction approved by the Commission under this subchapter may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A carrier, corporation, or person participating in that transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction. However, if a purchase and sale, a lease, or a corporate consolidation or merger is involved in the transaction, the carrier or corporation may carry out the transaction only with the assent of a majority, or the number required under applicable State law, of the votes of the holders of the capital stock of that corporation entitled to vote. The vote must occur at a regular meeting, or special meeting called for that purpose, of those stockholders and the notice of the meeting must indicate its purpose.

(b) A power granted under this subchapter to a carrier or corporation is in addition to and changes its powers under its corporate charter and under State law. Action under this subchapter does not establish or provide for establishing a corporation under the laws of the United States.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1434.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11341.....	49:5(12).	Feb. 4, 1887, ch. 104, § 5(12), 24 Stat. 380; Feb. 28, 1920, ch. 91, § 407, 41 Stat. 480; June 16, 1933, ch. 91, § 202, 48 Stat. 219; June 19, 1934, ch. 652, § 602(b), 48 Stat. 1102; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 7, 54 Stat. 908; Feb. 5, 1976, Pub. L. 94-210, § 403(a), 90 Stat. 63.

In subsection (a), the words "of the Interstate Commerce Commission" are added for clarity. The words "is exclusive" are substituted for "shall be exclusive and plenary" for clarity. The words "may carry out the transaction" are substituted for "shall have full power . . . to carry such transaction into effect" for clarity. The words "without the approval of a" are substituted for "without invoking any approval under" for clarity. The word "person" is substituted for "and their officers and employees and any other persons" as being more inclusive. The words "exempt from the antitrust laws" are substituted for "they are relieved from the operation of the antitrust laws" for clarity. The words "from all other law, including State and municipal law" are substituted for "of all other restraints, limitations, and prohibitions of law, Federal, State, or municipal" to eliminate redundancy. The words "as necessary" are substituted for "insofar as may be necessary" for clarity. The words "so approved and provided for in accordance with the terms and conditions, if any, imposed by the Commission" are omitted as unnecessary in view of the restatement. The 4th and last sentences of subsection (a) restate the words in parentheses in the 1st sentence of 49:5(12) for clarity.

In subsection (b), the words "Action under this subchapter does not establish" are substituted for "Nothing in this section shall be construed to create" for clarity. The word "is" is substituted for "shall be deemed to be" for clarity. The words "corporation under the laws of the United States" are substituted for "Federal corporation" as being more precise.

§ 11342. Limitation on pooling and division of transportation or earnings

(a) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title may not agree or combine with another of those carriers to pool or divide traffic or services or any part of their earnings without the approval of the Commission under this section or sections 11124 and 11125 of this title. The Commission may approve and authorize the agreement or combination if the carriers involved assent to the pooling or division and the Commission finds that a pooling or division of traffic, services, or earnings—

(1) will be in the interest of better service to the public or of economy of operation; and

(2) will not unreasonably restrain competition.

(b) The Commission may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the carriers.

(c) This section affects an agreement or combination filed with the Commission before March 19, 1941, to which a water common carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title is a party only when the Commission determines that the agreement or combination does not meet the requirements for approval and authorization under subsection (a) of this section.

(d) The Commission may begin a proceeding under this section on its own initiative or on application.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1434.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11342.....	49:5(1) (less words between semicolon and 1st colon).	Feb. 4, 1887, ch. 104, § 5(1) (less words between semicolon and 1st colon), 24 Stat. 380; Feb. 28, 1920, ch. 91, § 407, 41 Stat. 480; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 7, 54 Stat. 905.

In subsection (a), the words "subchapter I, II, or III of chapter 105 of this title" are substituted for "this chapter, chapter 8, or chapter 12 of this title" to conform to the revised title. The words "upon specific approval by order of the Commission" are omitted as unnecessary in view of the restatement and subchapter II of chapter 5 of title 5. The words "under this section or sections 11124 and 11125 of this title" are substituted for "as in this section provided, and except as provided in paragraph (16) of section 1 of this title" to conform to the revision of 49:1(16) and 5. The words "may not agree or combine" are substituted for "it shall be unlawful . . . to enter into any contract, agreement, or combination" for clarity and as being more inclusive. The words "gross or net" are omitted as surplus. The words "by order" are omitted as unnecessary in view of subchapter II of chapter 5 of title 5. The words "*Provided*, That" are omitted as surplus. The words "the Commission finds" are substituted for "whenever the Commission is of opinion" for clarity. The word "unreasonably" is substituted for "unduly" for clarity.

In subsection (b), the words "The Commission may impose conditions governing the pooling or division" are substituted for "to the extent indicated by the Commission . . . under such rules and regulations, . . . and upon such terms and conditions, as shall be found by the Commission to be just and reasonable in the premises" for clarity and consistency in view of subchapter II of chapter 5 of title 5. The words "may approve and authorize payment of a reasonable consideration between the carriers" are substituted for "and for such consideration as between such carriers" for clarity.

In subsection (c), the words "*Provided further*, That" are omitted as surplus. The words "This section affects an agreement or combination filed with the Commission before March 19, 1941 only" are substituted for "any contract, agreement, or combination . . . relating to the pooling or division of traffic, service, or earnings, or any portion thereof, lawfully existing on September 18, 1940, if filed with the Commission within six months after such date, shall continue to be lawful" for clarity and to eliminate obsolete language. The words "when the Commission determines that the agreement or combination does not meet the requirements for approval and authorization under subsection (a) of this section" are substituted for "except to the extent that the Commission . . . may find and by order declare that such contract, agreement, or combination is not in the interest of better service to the public or of economy in operation, or that it will unduly restrain competition" for clarity and consistency.

In subsection (d), the word "proceeding" is substituted for "hearing" for consistency in view of subchapter II of chapter 103 of the revised title and subchapter II of chapter 5 of title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11914 of this title.

§ 11343. Consolidation, merger, and acquisition of control

(a) The following transactions involving carriers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I (except a pipeline carrier), II, or III of chapter 105 of this title may be carried out only with the approval and authorization of the Commission:

(1) consolidation or merger of the properties or franchises of at least 2 carriers into one corporation for the ownership, management, and operation of the previously separately owned properties.

(2) a purchase, lease, or contract to operate property of another carrier by any number of carriers.

(3) acquisition of control of a carrier by any number of carriers.

(4) acquisition of control of at least 2 carriers by a person that is not a carrier.

(5) acquisition of control of a carrier by a person that is not a carrier but that controls any number of carriers.

(6) acquisition by a rail carrier of trackage rights over, or joint ownership in or joint use

of, a railroad line (and terminals incidental to it) owned or operated by another rail carrier.

(b) A person may carry out a transaction referred to in subsection (a) of this section or participate in achieving the control or management, including the power to exercise control or management, in a common interest of more than one of those carriers, regardless of how that result is reached, only with the approval and authorization of the Commission under this subchapter. In addition to other transactions, each of the following transactions are considered achievements of control or management:

(1) A transaction by a carrier has the effect of putting that carrier and persons affiliated with it, taken together, in control of another carrier.

(2) A transaction by a person affiliated with a carrier has the effect of putting that carrier and persons affiliated with it, taken together, in control of another carrier.

(3) A transaction by at least 2 persons acting together (one of whom is a carrier or is affiliated with a carrier) has the effect of putting those persons and carriers and persons affiliated with any of them, or with any of those affiliated carriers, taken together, in control of another carrier.

(c) A person is affiliated with a carrier under this subchapter if, because of the relationship between that person and a carrier, it is reasonable to believe that the affairs of another carrier, control of which may be acquired by that person, will be managed in the interest of the other carrier.

(d)(1) Approval and authorization by the Commission are not required if the only parties to a transaction referred to in subsection (a) of this section are motor carriers providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and the aggregate gross operating revenues of those carriers were not more than $300,000 during a period of 12 consecutive months ending not more than 6 months before the date of the agreement of the parties covering the transaction. However, the approval and authorization of the Commission is required when a motor carrier that is controlled by or affiliated with a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of that chapter is a party to the transaction.

(2) The approval and authorization of the Commission are not required if the only parties to a transaction referred to in subsection (a) of this section are street, suburban, or interurban electric railways that are not controlled by or under common control with a carrier that is operated as part of a general railroad system of transportation.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1434.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11343(a).....	49:5(2)(a), (14).	Feb. 4, 1887, ch. 104, § 5(2)(a), (5), (6), (7), (11), and (14), 24 Stat. 380; Feb. 28, 1920, ch. 91, § 407, 41 Stat. 480; June 16, 1933, ch. 91, § 202, 48 Stat. 218; June 19, 1934, ch. 652, § 602(b), 48 Stat. 1102; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 7, 54 Stat. 907; Aug. 2, 1949, ch. 379, § 4, 63 Stat. 486; July 27, 1965, Pub. L. 89–93, § 1, 79 Stat. 284; Feb. 5, 1976, Pub. L. 94–210, § 403, 90 Stat. 63.
11343(b) (1st sentence).	49:5(5).	
11343(b) (less 1st sentence).	49:5(6).	
11343(c).....	49:5(7).	
11343(d).....	49:5(11).	

In subsection (a), the words "may be carried out only" are substituted for "It shall be lawful" as being more precise. The words "providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I (except a pipeline carrier), II, or III of chapter 105 of this title" are added for clarity. The words "as provided in subdivision (b) of this paragraph or paragraph (3)" are omitted as unnecessary in view of the restatement of 49:5. The words "or any part thereof" are omitted as surplus. The word "previously" is substituted for "theretofore" as being more appropriate. The words "through ownership of its stock or otherwise" are omitted as surplus and as included in the definition of "control" in section 10102 of the revised title. The word "that" is substituted for "which" as being more appropriate. The word "it" is substituted for "thereto" for clarity.

In subsection (b), the words "A person may . . . only with the approval and authorization of the Commission under this subchapter" are substituted for "It shall be unlawful for any person, except as provided in paragraphs (2) or (3) of this section" for clarity in view of the restatement. The words "referred to in" are substituted for "within the scope of" for clarity. The words "participate in achieving" are substituted for "to accomplish or effectuate, or to participate in accomplishing or effectuating" as being more inclusive. The words "including the power to exercise control or management" are substituted for 49:5(5) (last sentence) to eliminate the use of a definition. The words "regardless of how that result is reached" are substituted for "however such result is attained, whether directly or indirectly, by use of common directors, officers, or stockholders, a holding or investment company or companies, a voting trust or trusts, or in any other manner whatsoever" as being more inclusive. The 2d sentence of 49:5(5) is omitted as obsolete. The words "For the purposes of this section" are omitted as unnecessary in view of the restatement. The words "In addition to other transactions" are substituted for "but not in anywise limiting the application of the provisions thereof" for clarity. The words "are considered" are substituted for "shall be deemed" for clarity. The words "A transaction . . . has the effect" are substituted for "and if the effect of such transaction is" for clarity.

In subsection (c), the words "A person is affiliated with a carrier under this subchapter" are substituted for "For the purposes of this section, a person shall be

held to be affiliated with a carrier" for clarity. The words "(whether by reason of the method of, or circumstances surrounding organization or operation, or whether established through common directors, officers, or stockholders, a voting trust or trusts, a holding or investment company or companies, or any other direct or indirect means)" are omitted as surplus.

In subsection (d), the words "Approval and authorization by the Commission are not required" are substituted in both places for "Nothing in this section shall be construed to require the approval or authorization of the Commission" for clarity. The word "if" is substituted for "in the case of . . . where" for clarity. The words "were not more than" are substituted for "have not exceeded" for consistency. The word "before" is substituted for "preceding" for clarity. The last sentence of subsection (c)(1) is substituted for "(but not including a motor carrier controlled by or affiliated with a carrier as defined in section 1(3) of this title)" for clarity and to more fully state the exception. The word "steam" is omitted as surplus in view of 49:1(18) and 1a(1).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1377, 1654, 11321, 11344, 11345, 11912 of this title.

§ 11344. Consolidation, merger, and acquisition of control: general procedure and conditions of approval

(a) The Interstate Commerce Commission may begin a proceeding to approve and authorize a transaction referred to in section 11343 of this title on application of the person seeking that authority. When an application is filed with the Commission, the Commission shall notify the chief executive officer of each State in which property of the carriers involved in the proposed transaction is located and shall notify those carriers. If a motor carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title is involved in the transaction, the Commission must notify the persons specified in section 10328(b) of this title. The Commission shall hold a public hearing when a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of that chapter is involved in the transaction unless the Commission determines that a public hearing is not necessary in the public interest.

(b) In a proceeding under this section, the Commission shall consider at least the following:

(1) the effect of the proposed transaction on the adequacy of transportation to the public.

(2) the effect on the public interest of including, or failing to include, other rail carriers in the area involved in the proposed transaction.

(3) the total fixed charges that result from the proposed transaction.

(4) the interest of carrier employees affected by the proposed transaction.

(c) The Commission shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Commission may impose conditions governing the transaction. When the transaction contemplates a guaranty or assumption of payment of dividends or of fixed charges or will result in an increase of total fixed charges, the Commission may approve and authorize the transaction only if it finds that the guaranty, assumption, or increase is consistent with the public interest. When a rail carrier, or a person controlled by or affiliated with a rail carrier, is an applicant and the transaction involves a motor carrier, the Commission may approve and authorize the transaction only if it finds that the transaction is consistent with the public interest, will enable the rail carrier to use motor carrier transportation to public advantage in its operations, and will not unreasonably restrain competition. When a rail carrier is involved in the transaction, the Commission may require inclusion of other rail carriers located in the area involved in the transaction if they apply for inclusion and the Commission finds their inclusion to be consistent with the public interest.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1436.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11344(a).....	49:5(2)(b) (less last sentence).	Feb. 4, 1887, ch. 104, § 5(2)(b)-(e), 24 Stat. 380; Feb. 28, 1920, ch. 91, § 407, 41 Stat. 480; June 10, 1921, ch. 20, § 1, 42 Stat. 27; June 19, 1934, ch. 652, § 602(b), 48 Stat. 1102; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 7, 54 Stat. 907; Aug. 2, 1949, ch. 379, § 3, 63 Stat. 485.
11344(b).....	49:5(2)(c).	
11344(c).....	49:5(2)(b) (last sentence), (d), (e).	

In subsection (a), the words "may begin a proceeding" are substituted for "and shall afford reasonable opportunity for interested parties to be heard. If the Commission shall consider it necessary in order to determine whether the findings specified below may properly be made, it shall set said application for public hearing;" for clarity and consistency in view of subchapter II of chapter 5 of title 5 and section 10327 of the revised title. The words "referred to in section 11343 of this title" are substituted for "under subdivision (a) of this paragraph" for consistency. The words "when an application is filed" are substituted for "shall present an application" for clarity. The words "and shall notify those carriers" are substituted for "and also such carriers and the applicant or applicants" for clarity and to eliminate redundancy since the applicant is on notice by filing the application.

In subsection (b), the words "In a proceeding under this section" are substituted for "In passing upon any proposed transaction under the provisions of this paragraph" for clarity. The words "at least" are substituted for "among others" for clarity. The word "area" is substituted for "territory" as being more appropriate.

In subsection (c), the words "The Commission shall . . . when it finds . . . may impose conditions governing the transaction" are substituted for "If the Commission finds, subject to such terms and conditions and such modifications as it shall find to be just and reasonable" for clarity. The word "conditions" is substituted for "terms and conditions" to eliminate redundancy. The words "just and reasonable" are omitted in view of the words "the transaction is consistent with the public interest" and in view of section 706 of

title 5. The words "such modifications" are omitted as unnecessary in view of the restatement. The words "the proposed transaction is within the scope of subdivision (a) of this paragraph" are omitted as unnecessary in view of the restatement. The words "enter an order" are omitted as unnecessary in view of subchapter II of chapter 5 of title 5. The words "upon the terms and conditions, and with the modifications, so found to be just and reasonable" are omitted as surplus. The words "When a rail carrier" are substituted for "*Provided*, That if a carrier by railroad subject to this chapter" for clarity. The words "within the meaning of paragraph (6) of this section" are omitted as unnecessary in view of the restatement. The words "in the case of any such proposed" are omitted as surplus. The words "only if it finds" are substituted for "shall not enter such an order unless it finds" for clarity. The words "transaction is consistent" are substituted for "transaction proposed will be consistent" for clarity. The word "unreasonably" is substituted for "unduly" for clarity. The words "When a rail carrier is involved in the transaction, the Commission may" are substituted for "The Commission shall have authority in the case of a proposed transaction under this paragraph involving a railroad or railroads, as a prerequisite to its approval of the proposed transaction" for clarity. The words "upon equitable terms" are omitted in view of the words "finds . . . inclusion to be consistent with the public interest" and in view of section 706 of title 5. The words "if they apply for inclusion" are substituted for "upon petition by such railroad or railroads requesting such inclusion" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1654, 11321, 11345, 11346, 11347, 11348, 11912 of this title.

§ 11345. Consolidation, merger, and acquisition of control: rail carrier procedure

(a) If a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title is involved in a proposed transaction under section 11343 of this title, this section and section 11344 of this title also apply to the transaction. The Commission shall publish notice of the application in the Federal Register by the end of the 30th day after the application is filed with the Commission and after a certified copy of it is furnished to the Secretary of Transportation. However, if the application is incomplete, the Commission shall reject it by the end of that period. The order of rejection is a final action of the Commission under section 10327 of this title.

(b) Written comments about an application may be filed with the Commission within 45 days after notice of the application is published under subsection (a) of this section. Copies of those comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

(c) The Commission shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it and given to the Secretary of Transportation by the 90th day after publication of notice under that subsection.

(d) The Commission must conclude evidentiary proceedings by the 240th day after the date of publication of notice under subsection (a) of this section. However, if the application involves the merger or control of at least 2 class I railroads, as defined by the Commission, it must conclude evidentiary proceedings by the end of the 24th month after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 180th day after the date it concludes the evidentiary proceedings. If the Commission does not issue a decision that is a final action under section 10327 of this title, it shall send written notice to Congress that a decision was not issued and the reason why it was not issued.

(e) The Commission may waive the requirement that an initial decision be made under section 10327 of this title and make a final decision itself when it determines that action is required for the timely execution of its functions under this subchapter or that an application governed by this section is of major transportation importance. The decision of the Commission under this subsection is a final action under section 10327 of this title.

(f) The Secretary of Transportation may propose changes in transactions governed by this section when a rail carrier is involved. The Secretary may appear before the Commission to support those changes.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1436.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11345(a).....	49:5(2)(g)(i).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 5(2)(g), (h); added Feb. 5, 1976, Pub. L. 94–210, § 402(b), 90 Stat. 62.
11345(b).....	49:5(2)(g)(ii), (iii).	
11345(c).....	49:5(2)(g)(iv).	
11345(d).....	49:5(2)(g)(v), (vi), and (2d sentence).	
11345(e).....	49:5(2)(g) (less (i)–(vi) and 2d sentence).	
11345(f).....	49:5(2)(h).	

In the section, the introductory language before 49:5(2)(g)(i) is used throughout for clarity in view of the restatement.

In subsection (a), the words "is a final action of the Commission under section 10327 of this title" are substituted for "which order shall be deemed to be final under the provisions of section 17 of this title" for clarity.

In subsection (b), the words "Written comments . . . may be filed" are substituted for "provide that written comments on an application . . . may be filed" for clarity. The words "That decision must be made by the 15th day after" are substituted for "shall be afforded 15 days following the date" for clarity.

In subsection (c), the words "in whole or in part" are omitted as surplus. The word "given" is substituted for "furnished" as being more appropriate.

In subsection (d), the words "does not issue" are substituted for "fails to issue" as being more precise. The words "final action under section 10327 of this title" are substituted for "which is final within the meaning

of section 17 of this title" for consistency. The words "send written notice to Congress" are substituted for "notify the Congress in writing" for clarity.

In subsection (e), the words "waive the requirement that an initial decision be made under section 10327 of this title and make a final decision itself" are substituted for "it may order that the case be referred directly (without an initial decision by a division, individual Commissioner, board, or administrative law judge) to the full Commission for a decision" for consistency and clarity in view of section 10327 of the revised title. The word "due" is omitted as surplus.

In subsection (f), the words "rail carrier" are substituted for "carrier by railroad" for consistency. The words "may appear" are substituted for "shall have standing to appear" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11346, 11347, 11348, 11912 of this title.

§ 11346. Consolidation, merger, and acquisition of control: expedited rail carrier procedure

(a) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title or the Secretary of Transportation may apply, before January 1, 1982, for authority for and approval of a merger, consolidation, unification or coordination project (as described in section 1654(c) of this title), joint use of tracks or other facilities, or acquisition or sale of assets involving one of those rail carriers, under this section instead of sections 11344 and 11345 of this title. The Secretary may apply under this section only when the parties to the application that are rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of that chapter consent to an application by the Secretary. A rail carrier may apply under this section only if it sent the proposed transaction to the Secretary for a report under section 11350 of this title at least 6 months before applying under this section.

(b) When the Commission notifies persons required to receive notice that an application has been filed under this section, the Commission must include in the notice a copy of the application, a summary of the proposed transaction, and the applicant's reasons and public interest justification for the transaction. When the Commission notifies the Secretary of Transportation that an application has been filed under this section, the Commission shall also request the report of the Secretary prepared under section 11350 of this title. By the 10th day after receiving an application under this section, the Commission shall send notice of the proposed transaction to—

(1) the chief executive officer of each State that may be affected by the execution or implementation of the proposed transaction;

(2) the Attorney General;

(3) the Secretary of Labor; and

(4) the Secretary of Transportation (unless the Secretary is the applicant under subsection (a) of this section).

(c) The Commission shall designate a panel of the Commission to make a recommended decision on each application under this section. The panel must begin a proceeding by the 90th day after the date the Commission receives the application, complete the proceeding by the 180th day after the application is referred to it, and give its recommended decision and certify the record to the entire Commission by the 90th day after the proceeding is completed. The panel may use employees appointed under section 3105 of title 5 and the Rail Services Planning Office in conducting the proceeding, evaluating the application and comments received about it, and determining whether it is in the public interest to approve and authorize the transaction under the last sentence of subsection (d) of this section. To carry out this subsection, the panel may make rules and rulings to avoid unnecessary costs and delay. In making its recommended decision, the panel shall—

(1) request the views of the Secretary of Transportation about the effect of the transaction on the national transportation policy, as stated by the Secretary, and consider the report submitted under section 11350 of this title;

(2) request the views of the Attorney General about the effect of the transaction on competition; and

(3) request the views of the Secretary of Labor about the effect of the transaction on rail carrier employees, particularly whether the proposal contains adequate employee protection provisions.

The Secretaries and the Attorney General shall send their written views to the panel. Those statements are available to the public under section 552(a) of title 5.

(d) When the recommended decision and record of a proceeding under this section are certified to the entire Commission, it must hear oral argument on the matter certified to it and make a final decision by the 120th day after receiving the recommended decision and record. The Commission may extend a time period under subsection (c) of this section or under this subsection but must make its final decision by the end of the 2d year after receipt of the application by the Commission. The Commission shall consider the report of the Secretary of Transportation under section 11350 of this title in making its final decision. The final decision must be accompanied by a written opinion stating the reasons for the Commission action. The Commission may—

(1) approve the transaction if the Commission determines the transaction is in the public interest;

(2) approve the transaction with conditions and modifications that it determines are in the public interest; or

(3) disapprove the transaction if it determines the transaction is not in the public interest.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1437.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11346(a).....	49:56(3)(a), (b).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 5(3)(a)-(e), (f) (last sentence), (g); added Feb. 5, 1976, Pub. L. 94-210, § 403(a), 90 Stat. 63.
11346(b).....	49:5(3)(c).	
11346(c).....	49:5(3)(d) (less 6th and last sentences), (e).	
11346(d).....	49:5(3)(d) (6th and last sentences), (f) (last sentence), (g).	

In subsection (a), the words "by an eligible party in accordance with subdivision (b)" are omitted as unnecessary in view of the restatement. The words "before January 1, 1982" are substituted for "during the period beginning on February 5, 1976 and ending on December 31, 1981" for clarity. The words "may apply . . . under this section instead of sections 11344 and 11345 of this title" are substituted for "may utilize the procedure set forth in this paragraph or in paragraph (2) of this section" for clarity and to conform to the revised title. The words "Any transaction described in subdivision (a) may be proposed to the Commission by" are omitted as unnecessary in view of the restatement. The words "hereafter in this paragraph referred to as the 'Secretary'" are omitted as unnecessary in view of the restatement. The word "only" is added in the last 2 sentences for clarity. The word "sent" is substituted for "submitted" for clarity.

In subsection (b), the words "whenever a transaction described in subdivision (a) is proposed under this paragraph, the proposing party shall submit an application for approval thereof to the Commission" are omitted in view of the restatement of 49:5(2)(b) (less last sentence) in section 11344(a) of the revised title. The words "directly or indirectly" are omitted as surplus. The words "Secretary is the applicant under subsection (a) of this section" are substituted for "Secretary is the proposing party" for clarity. The words "shall also request the report of the Secretary prepared under section 11350 of this title" are substituted for "shall accompany its notice to the Secretary with a request for the report of the Secretary pursuant to clause (v) of subdivision (f)." for clarity. The words "When the Commission notifies persons required to receive notice" are substituted for "Each such notice" for consistency. The words "that an application has been filed under this section" are inserted for clarity. The words "chief executive officer" are substituted for "Governor" since the District of Columbia is included in the definition of "State" in section 10102 of the revised title.

In subsection (c), the word "proceeding" is substituted for "public hearing" in view of subchapter II of chapter 5 of title 5. The words "The panel must begin a proceeding" are substituted for "The Commission shall hold a public hearing. . . . Such public hearing shall be held before a panel of the Commission" to clarify the statutory intent. The words "shall designate a panel of the Commission to make a recommended decision" are substituted for "a panel . . . duly designated for such purpose. . . . Such panel shall recommend a decision" for clarity. The words "complete the proceeding by the 180th day" are substituted for "shall complete such hearing within 180 days" for consistency. The words "The panel may use" are substituted for "Such panel may utilize" for clarity. The words "in such manner as it considers appropriate for the conduct of the hearing" are omitted as unnecessary. The words "and reasonable" are omitted as unnecessary in view of section 706 of title 5. The words "To carry out this subsection the panel may make rules and rulings" are substituted for "and it may, in order to meet such requirement, prescribe such rules and make such rulings" for clarity. The words "for final decision" are omitted as unnecessary in view of subsection (d) of this revised section. The words "with respect to any transaction proposed under this paragraph, to duly designate" are omitted as unnecessary in view of the restatement. The words "about the effect of the transaction" are substituted for "with respect to the effect of such proposed transaction" for clarity. The words "available to the public under section 552(a) of title 5" are substituted for "available to the public upon request" for consistency.

In subsection (d), the word "but" is substituted for "except that" for clarity. The words "must make its final decision" are substituted for "the final decision of the Commission shall be rendered" for clarity. The words "shall consider" are substituted for "shall give due weight and consideration" for clarity. The words "In each case" are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11347, 11350, 11912 of this title.

§ 11347. Employee protective arrangements in transactions involving rail carriers

When a rail carrier is involved in a transaction for which approval is sought under sections 11344 and 11345 or section 11346 of this title, the Interstate Commerce Commission shall require the carrier to provide a fair arrangement at least as protective of the interests of employees who are affected by the transaction as the terms imposed under this section before February 5, 1976, and the terms established under section 565 of title 45. Notwithstanding this subtitle, the arrangement may be made by the rail carrier and the authorized representative of its employees. The arrangement and the order approving the transaction must require that the employees of the affected rail carrier will not be in a worse position related to their employment as a result of the transaction during the 4 years following the effective date of the final action of the Commission (or if an employee was employed for a lesser period of time by the carrier before the action became effective, for that lesser period).

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1439.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11347.....	49:5(2)(f).	Feb. 4, 1887, ch. 104, § 5(2)(f), 24 Stat. 380; Feb. 28, 1920, ch. 91, § 407, 41 Stat. 480; June 19, 1934, ch. 652, § 602(b), 48 Stat. 1102; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 7, 54 Stat. 907; Feb. 5, 1976, Pub. L. 94-210, § 403(b)(2), 90 Stat. 65.

The words "When a rail carrier is involved in the transaction for which approval is sought under sections 11344 and 11345 or section 11346 of this title, the Interstate Commerce Commission shall require the carrier" are substituted for "As a condition of its approval, under this paragraph . . . of any transaction involving a carrier or carriers by railroad subject to the provisions of this chapter, the Commission shall require" for clarity. The words "or paragraph (3)" are

omitted as unnecessary in view of the restatement. The word "fair" is substituted for "fair and equitable" because it is inclusive. The words "an arrangement at least as protective . . . as the terms imposed under this section before February 5, 1976, and the terms established under section 565 of title 45" are substituted for "arrangement to protect the interests of . . . Such arrangement shall contain provisions no less protective of the interests of employees than those heretofore imposed pursuant to this subdivision and those established pursuant to section 565 of title 45" for clarity and to correct the amendment made by section 402(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 that added the word "heretofore". The words "related to" are substituted for "with respect to" for consistency. The words "any other provisions of" are omitted as surplus. The word "arrangement" is substituted for "agreement" for consistency. The word "hereafter" is omitted as obsolete. The word "made" is substituted for "entered into" for clarity. The word "duly" is omitted as surplus. The words "The arrangement and the order approving the transaction must require" are substituted for "In its order of approval the Commission shall include" for clarity. The words "final action" are substituted for "of such order" for consistency. The words "if an employee was employed for a lesser period of time by the carrier before the action became effective, for that lesser period" are substituted for "except that the protection afforded to any employee pursuant to this sentence shall not be required to continue for a longer period following the effective date of such order, than the period during which such employee was in the employ of such carrier or carriers prior to the effective date of such order" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1609, 1636, 10903, 11912 of this title; title 45 sections 565, 904, 915.

§ 11348. Interstate Commerce Commission authority over noncarrier that acquires control of carrier

(a) When the Interstate Commerce Commission approves and authorizes a transaction under sections 11344 and 11345 of this title in which a person not a carrier providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title acquires control of at least one carrier subject to the jurisdiction of the Commission, the person is subject, as a carrier, to the following provisions of this title that apply to the carrier being acquired by that person, to the extent specified by the Commission: section 10764, subchapter III of chapter 111, and sections 11301, 11302, 11709, 11711, 11901(f), (h)(1), 11909(a)(1), (b), and 11911(a).

(b) When a person subject to sections 11301, 11302, 11322, 11709, and 11911 of this title because of acquiring control of a carrier, applies to the Commission for authority to issue securities or assume obligations or liabilities under those sections, the Commission may authorize the issue or assumption only when it finds the issue or assumption—

(1) is consistent with the proper performance of public transportation by the carrier that is controlled by that person;

(2) will not impair the ability of the carrier to provide public transportation; and

(3) is consistent with the public interest in other respects.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1439.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11348.....	49:5(4).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 5(4); added June 6, 1933, ch. 91, § 202, 48 Stat. 217; June 19, 1934, ch. 652, § 602(b), 48 Stat. 1102; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 7, 54 Stat. 907; Feb. 5, 1976, Pub. L. 94–210, § 403(a), 90 Stat. 63.

In subsection (a), the words "When the . . . Commission approves and authorizes a transaction under sections 11344 and 11345 of this title" are substituted for "Whenever a person . . . is authorized by an order entered under paragraph (2)" for clarity in view of the restatement. The words "a person not" are substituted for "Whenever a person which is not" for clarity. The words "providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title" are added for consistency. The words "at least one" are substituted for "any . . . or of two or more" to eliminate redundancy. The words "as a carrier" are substituted for "shall . . . be considered" for clarity. The words "which relate to reports, accounts, and so forth, of carriers" and "which relate to issues of securities and assumptions of liability of carriers, including in each case the penalties applicable in the case of violations of such provisions" are omitted as surplus.

In subsection (b), the words "When a person subject to sections 11301, 11302, 11322, 11709, and 11911 of this title because of acquiring control" are substituted for "In the application of such provisions of sections 20a and 314 of this title, in the case of any such person" for clarity. The words "issue securities or assume obligations or liabilities" are added for clarity. The words "may . . . only" are substituted for "shall . . . only" since the power is discretionary.

REFERENCES IN TEXT

Section 11711 of this title, referred to in subsec. (a), was not enacted by Pub. L. 95–473. Reference to section 320(f) of this title was probably intended because section 320(f) was originally scheduled to be restated in section 11711 but was not included in the enactment by Pub. L. 95–473.

§ 11349. Temporary operating approval for transactions involving motor and water carriers

(a) Pending determination of an application filed with the Interstate Commerce Commission under this subchapter for approval of a consolidation or merger of the properties of at least 2 motor carriers or at least 2 water carriers, or of a purchase, lease, or contract to operate the properties of at least one motor carrier or at least one water carrier, the Commission may approve, for a period of not more than 180 days, the operation of the properties sought to be acquired by the person proposing in the application to acquire those properties. The Commission may approve operation of motor carrier properties when it appears that failure to grant the approval may result in destruction of or injury to those motor carrier properties the person is seeking to acquire, or substantially interfere with their future usefulness in providing adequate and continuous service to the public. The Commission may approve the oper-

ation of water carrier properties only for good cause shown.

(b) The Commission may take action under subsection (a) of this section without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5. Transportation provided by a motor carrier under a grant of approval under this section is subject to this subtitle.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1439.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11349.....	49:310a(b), (c).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 210a(b), (c); added June 29, 1938, ch. 811, § 10, 52 Stat. 1238; Sept. 18, 1940, ch. 722, § 21(b), 54 Stat. 923.
	49:911(b).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 311(b); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 944.

The section consolidates and restates the source provisions for clarity. The word "temporary" is omitted as unnecessary.

In subsection (a), the words "at least 2" are substituted for "of two or more" and the words "at least one" are substituted for "of one or more" for consistency. The words "in its discretion" in 49:310a(b) are omitted as surplus. The words "of not more than" are substituted for "not exceeding" for consistency. The words "The Commission may approve operation of" are inserted each place for clarity.

In subsection (b), the words "may take action under subsection (a) of this section without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5" are substituted for "without hearings or other proceedings" as being more precise. The words "is subject to this subtitle" are substituted for "shall be subject to all applicable provisions of this chapter and to the rules, regulations, and requirements of the Commission thereunder" for clarity and to eliminate redundancy.

§ 11350. Responsibility of the Secretary of Transportation in certain transactions

(a) When a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title sends a proposed transaction to the Secretary of Transportation under section 11346(a) of this title or the Secretary develops a proposed transaction for submission to the Commission under that section, the Secretary shall publish a summary and a detailed account of the transaction in the Federal Register and give notice of the transaction to the Attorney General and to the chief executive officer of each State in which property of a rail carrier involved in the transaction is located. The Secretary shall initiate an informal proceeding on the proposed transaction under section 553 of title 5.

(b) By the 10th day after an application is submitted to the Commission under section 11346 of this title, the Secretary shall complete and send to the Commission a study of the proposed transaction about—

(1) the needs of rail transportation in the geographical area affected by the transaction;

(2) the effect of the transaction on competition in rail transportation and other modes of transportation in the geographical area affected by the transaction;

(3) the environmental impact of the transaction and of alternative choices of action;

(4) the effect of the transaction on employment;

(5) the cost of rehabilitation and modernization of track, equipment, and other facilities, with a comparison of the potential savings or losses from other possible choices of action;

(6) the rationalization of the rail system;

(7) the impact of the transaction on shippers, consumers, and rail carrier employees;

(8) the effect of the transaction on communities in the geographical area affected by the transaction and on geographical areas contiguous to the affected areas; and

(9) whether the proposed transaction will improve rail service.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1440.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11350(a).....	49:5(3)(f)(i)–(iii).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 5(3)(f) (less last sentence); added Feb. 5, 1976, Pub. L. 94–210, § 403(a), 90 Stat. 63.
11350(b).....	49:5(3)(f) (less (i)–(iii) and last sentence).	

In subsection (a), the word "When" is substituted for "whenever" as being more appropriate. The words "in order to provide reasonable notice to interested parties and the public of such proposed transaction" are omitted as surplus. The word "located" is substituted for "situated" for clarity. The words "under section 553 of title 5" are added for clarity in view of 49:1655(h).

In subsection (b), the words "shall complete and send to the Commission a study" are substituted for "submit a report to the Commission setting forth the results of each study conducted pursuant to clause (iv)" for clarity. The words "of the" are substituted for "with respect to" and "with respect to the proposed transaction which is the object of such study" for clarity. The words "the retention and promotion" are omitted as surplus. The words "in rail transportation and other modes of transportation" are substituted for "in the provision of rail and other transportation services" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11346 of this title.

SUBCHAPTER IV—FINANCIAL STRUCTURE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 26 section 354.

§ 11361. Scope of authority: changes in financial structure

(a) The authority of the Interstate Commerce Commission to act under this subchapter is ex-

clusive. The Commission may approve and authorize a carrier, as defined in section 11301(a)(1) of this title, to change (1) a part of a class of its securities, as defined in section 11301(a)(2) of this title, or (2) a part of an instrument under which a class of its securities is issued or a class of its obligations is secured. When a change is approved and authorized by the Commission under this subchapter, the carrier may carry out the change notwithstanding an express provision in the affected instrument or a State law and without getting other approval from the Commission or from a State authority. A person participating in carrying out a change that is approved and authorized under this subchapter is exempt from all other law, including State and municipal law, as necessary to let that person carry out the change.

(b) The Commission may not approve an application filed under this section by a carrier that is in equity receivership or reorganization under section 205 of title 11.

(c) A power granted to a carrier under this subchapter changes its powers under its corporate charter and under State law.

(d) This subchapter does not affect the negotiability of a security of a carrier or of the obligation of a carrier that assumed liability related to a security. This subchapter does not apply to an equipment-trust certificate under which a carrier is obligated, to an evidence of indebtedness of a carrier the payment of which is secured solely by equipment, or to another instrument under which that equipment-trust certificate or evidence of indebtedness was issued or by which either of them is secured.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1441.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11361(a).....	49:20b(1) (less proviso), (5) (less 2d and last sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 20b(1), (5), and (13); added Apr. 9, 1948, ch. 180, § 2, 62 Stat. 163, 165, 167; June 25, 1948, ch. 646, § 32, 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.
11361(b).....	49:20b(13).	
11361(c).....	49:20b(5) (2d sentence).	
11361(d).....	49:20b(1) (proviso), (5) (last sentence).	

In subsection (a), the words "to act under this subchapter" are substituted for "conferred by this section" for clarity. The word "exclusive" is substituted for "exclusive and plenary" as being more appropriate. The words "in respect of any" are omitted as unnecessary in view of the restatement. The word "change" is substituted for "alteration or modification" as being more inclusive. The word "hereunder" is omitted as unnecessary in view of the restatement. The words "The Commission may approve and authorize . . . When . . . approved and authorized . . . the carrier may carry out" are substituted for "It shall be lawful . . . with the approval and authorization of the Commission . . . for a carrier" for clarity. The words "as provided in paragraph (2) of this section" are omitted as unnecessary in view of the restatement. The words "being hereinafter in this section sometimes called 'securities'" are omitted as surplus. The words "of an instrument" are substituted for "of any mortgage, indenture, deed of trust, corporate charter, or other instrument" as being more inclusive. The words "hereinafter referred to as instruments" are omitted as unnecessary in view of the restatement. The words "under which . . . is issued" are substituted for "pursuant to which . . . shall have been issued" for clarity. The words "may carry out the change" are substituted for "shall have full power to make any such alteration or modification and to take any actions incidental or appropriate thereto, and may make any such alteration or modification and take any such actions" as being more appropriate and precise. The words "notwithstanding an express provision in the affected instrument or a State law" are substituted for "any express provision contained in any mortgage, indenture, deed of trust, corporate charter, stock certificate, or other instrument or any provision of State law to the contrary notwithstanding" for clarity and as being more inclusive. The words "without getting other approval from the Commission or from a State authority" are substituted for "and any such alteration or modification may be made without securing the approval of the Commission under section 208 of Title 11 or other paragraph of this section, and without securing approval of any State authority" for clarity and as being more inclusive. The words "A person participating" are substituted for "any carrier and its officers and employees and any other persons, participating" as being more inclusive. The words "under this subchapter" are substituted for "under the provisions of this section" to conform to the restatement. The words "in carrying out" are substituted for "in the making . . . or the taking of any such actions" for clarity. The words "is exempt from all other law, including State and municipal law" are substituted for "shall be, and they are, relieved from the operation of all restraints, limitations, and prohibitions of law, Federal, State, or municipal" for clarity. The words "as necessary to let" are substituted for "as may be necessary to enable" for clarity. The words "so approved and authorized in accordance with the conditions and with the amendments, if any, imposed by the Commission" are omitted as surplus.

In subsection (b), the words "may not" are substituted for "shall not" for clarity. The words "that is" are substituted for "while" for clarity. The words "in process of" are omitted as surplus. The words following the 1st comma in the 1st sentence of 49:20b(13) are omitted as executed.

In subsection (c), the words "shall be deemed to be" are omitted as unnecessary. The words "in addition to" are omitted as surplus.

In subsection (d), the words "This subchapter does not affect" are substituted for "The provisions of this section shall not affect" for clarity. The words "in any way" are omitted as surplus. The words "related to a security" are substituted for "in respect thereto" for clarity. The words "*Provided*, That" are omitted as surplus. The words "This subchapter does not apply" are substituted for "the provisions of this section shall not apply" for clarity. The words "under which" are substituted for "in respect of which" for clarity.

REFERENCES IN TEXT

Section 205 of title 11, referred to in subsec. (b), is a reference to section 77 of the Bankruptcy Act. The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended) was classified generally to former Title 11, Bankruptcy. The Act was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§ 1161 et seq.) of chapter 11 of Title 11.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11362 of this title.

§ 11362. Criteria for approval and authority

(a) A carrier may apply to the Interstate Commerce Commission for approval and authority to make a change under this subchapter. To approve a proposed change, the Commission must find that the proposed change—

(1) is within the scope of section 11361 of this title;

(2) will be in the public interest;

(3) will be in the best interests of the carrier, of each class of its stockholders, and of the holders of each class of the carrier's obligations that are affected by the change; and

(4) will not be against the interests of a creditor of the carrier who is not affected by the change.

If the change involves an issuance of securities, the Commission must also make the findings required under section 11301(d)(1) of this title.

(b)(1) The Commission shall begin a proceeding under this section on receipt of an application but may require an applicant to get assurances of assent to the change from the holders of the outstanding shares of the securities that will be affected by the change before continuing with the proceeding. The Commission may determine the percentage of the principal amount or number of those shares needed to establish assurance of assent to the change. A class of securities is considered to be affected by a proposed change only if the change is proposed to a part of that class or to a part of an instrument under which that class was issued or by which it is secured. However, if a proposed change is to an instrument under which at least 2 classes of securities were issued and are outstanding or secured by that instrument, only those classes to which the change is related are considered to be affected. The Commission shall divide the securities to be affected by a proposed change under this subchapter into reasonable classes for purposes of this subchapter.

(2) On receipt of an application of a carrier under this section the Commission shall notify, and file a copy of the application with, the chief executive officer of each State in which that carrier operates. The appropriate authorities of those States are entitled to be admitted as parties to a proceeding under this section to represent the rights and interests of their people and States.

(c) The carrier must give notice of the proceeding to the holders of the class of securities affected. The Commission may direct the carrier to give notice to other persons the Commission determines to have an interest in the proceeding. The carrier may give notice under this subsection only after it gets assurances of assent when they are required under this section.

(d) The Commission may impose conditions governing the proposed change. The Commission may determine the effective date for a change it approves and authorizes under this subchapter and may allow it to become effective on publication of a declaration to that effect by the carrier. After an application is approved, the Commission may change a condition imposed and impose supplemental requirements for good cause shown subject to the requirements of this subchapter.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1441.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11362(a).....	49:20b(2) (1st sentence, 4th sentence less words between 4th and 5th commas and less words between 8th comma and period).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 20b(2) (1st-3d sentences, 4th sentence less words between 8th comma and period, 9th sentence), (3) (1st and last sentences), (8); added Apr. 9, 1948, ch. 180, § 2, 62 Stat. 163; Aug. 16, 1957, Pub. L. 85–151, § 2, 71 Stat. 370.
11362(b)(1).	49:20b(2) (2d sentence), (3) (1st and last sentences).	
11362(b)(2).	49:20b(8) (1st sentence).	
11362(c).....	49:20b(2) (3d sentence).	
11362(d).....	49:20b(2) (4th sentence words between 4th and 5th commas and 9th sentence), (8) (less 1st sentence).	

In subsection (a), the words "A carrier may apply" are substituted for "the carrier seeking authority therefor shall, pursuant to such rules and regulations as the Commission shall prescribe, present an application to the Commission" for clarity and to eliminate redundancy in view of section 10321(a) of the revised title that gives the Commission the general power to prescribe regulations to carry out the revised title. The words "To approve a proposed change, the Commission must find" are substituted for "If the Commission, after hearing . . . shall find that" for clarity. The words "after hearing" are omitted from the sentence in view of subchapter II of chapter 5 of title 5. The word "If" is substituted for "in any case where" for clarity. The words "not inconsistent with paragraph (1) of this section" are omitted as surplus.

In subsection (b)(1), the words "on receipt of an application" are substituted for "Upon presentation of any such application" for clarity. The words "Commission shall begin a proceeding" are substituted for "the Commission shall set such application for public hearing" for clarity in view of subchapter II of chapter 5 of title 5. The words "but may require an applicant" are substituted for "may, in its discretion, but need not" to eliminate redundancy. The words "to get" are substituted for "to secure" for clarity. The word "change" is substituted for "alteration or modification" for consistency. The words "before continuing with the proceeding" are substituted for "as a condition precedent to further consideration" for clarity. The words "The Commission may determine" are substituted for "as the Commission shall in its discretion determine" for clarity. The words "For the purposes of this section" are omitted as unnecessary in view of the restatement. The words "is considered" are substituted for "shall be deemed" for clarity. The word "part" is substituted for "provision" for consistency. The words "under which" are substituted for "pursuant" to which" for clarity. The words "However, if" are substituted for "*Provided*, That in any case where" for clarity. The words "at least 2" are substituted for "more than one" for clarity. The words "were issued and are outstanding" are substituted for "shall have been issued and be outstanding" for clarity. The words "only those classes to which the change is related are considered to be affected" are substituted for "any alteration or modification proposed as to any provision of such instrument which does not relate to all of the classes of securities

issued thereunder, shall be deemed to affect only the class or classes of securities to which such alteration or modification is related" for clarity. The words "under this subchapter" are substituted for "for the purposes of this section" to conform to the revised title. The word "reasonable" is substituted for "just and reasonable" for clarity. See the revision note to section 10101 of the revised title. The words "as it shall determine" are omitted as unnecessary in view of subchapter II of chapter 5 of title 5.

In subsection (b)(2), the text of the source provision is omitted and the relevant part of 49:20a(6) is added for clarity. The words "chief executive officer" are substituted for "Governor" since the District of Columbia is included in the definition of "State" in section 10102 of the revised title.

In subsection (c), the words "shall set such application for public hearing" are omitted as unnecessary in view of the restatement. The words "The carrier must give notice of the proceeding" are substituted for "the carrier shall give reasonable notice of such hearing" for clarity and to eliminate the qualification "reasonable" since the Commission may prescribe the manner in which notice is given. The words "The carrier may give notice under this subsection only after it gets assurances of assent when they are required under this section" are substituted for "If the Commission shall not require the applicant to secure any such assurances, or when such assurances, as the Commission may require shall have been secured . . . [the carrier shall give . . . notice]" for clarity. The words "in such manner, by mail, advertisement, or otherwise, as the Commission may find practicable and may direct" are omitted as unnecessary in view of the restatement.

In subsection (d), the words "impose conditions governing" are substituted for "subject to such terms and conditions and with such amendments as it shall determine" for clarity. The words "just and reasonable" are omitted as unnecessary in view of the criteria for approval under the revised section and in view of section 706 of title 5. The words "The Commission may determine" are substituted for "Such order shall make provisions as to" for clarity. The words "the effective date" are substituted for "the time when . . . shall become and be binding" for clarity. The word "binding" is omitted from the sentence in view of subchapter II of chapter 103 of the revised title. The words "may allow" are substituted for "which may be" for clarity. The last sentence is substituted for 49:20b(8) (last sentence) for clarity in view of subchapter II of chapter 5 of title 5 and subchapter II of chapter 103 of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11363 of this title.

§ 11363. Assent of holders of securities and certain other instruments

(a)(1) After making the findings required under section 11362(a) of this title, the Commission may approve and authorize the change if it is assented to by the holders of at least 75 percent of the aggregate principal amount or number of outstanding shares of each class of securities affected by the change. The Commission may increase the percentage required for assent under this subsection for a class of shares when an increase is in the public interest and—

(A) 75 percent of the shares in that class are held by less than 25 security holders; or

(B) that class is entitled to vote for the election of directors of the carrier and the Commission determines that the assent of at least 25 percent of the security holders of that class are controlled by the carrier or a person controlling the carrier.

(2) The carrier may withdraw its application after the Commission makes the findings required under section 11362(a) of this title. If the application is not withdrawn, the Commission must require the carrier to submit the proposed change, with conditions imposed by the Commission, to the holders of each class of its securities affected by the change for their assent or rejection.

(b)(1) In determining the percentage of outstanding securities when making a finding under section 11362(a) of this title, a security that secures an evidence of indebtedness of the carrier or of a company controlling or controlled by the carrier is considered to be outstanding unless the Commission determines that the proposed change does not materially affect the interest of the holder of that evidence of indebtedness. When that security is considered to be outstanding, assent to a proposed change may be given, notwithstanding another instrument, only—

(A) if the security is pledged as security under an instrument under which an evidence of indebtedness was issued and is outstanding, by the holder of a majority of the principal amount of the evidence of indebtedness; or

(B) if the security secures an evidence of indebtedness not issued under an instrument under which an evidence of indebtedness was issued, by the holder of the evidence of indebtedness.

(2) In addition to a submission required under subsection (a) of this section, the Commission shall require the carrier to submit a proposed change to a security referred to in this subsection, with requirements imposed by the Commission, to the holder of the evidence of indebtedness referred to in paragraph (1)(A) and (B) of this subsection as appropriate, for assent or rejection. A carrier is not required to submit the change to the trustee of the instrument referred to in that paragraph.

(c) If the Commission determines that the assent of the holder of a security not entitled to vote for the election of directors of the carrier or an evidence of indebtedness is in the control of the carrier or of a person controlling the carrier, that security or evidence of indebtedness is not considered to be outstanding.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1442.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11363(a)(1).	49:20b(2) (8th sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 20b(2) (4th sentence, words between 8th comma and period, 8th sentence), (3) (less 1st and last sentences); added Apr. 9, 1948, ch. 180, § 2, 62 Stat. 163; Aug. 16, 1957, Pub. L. 85–150, §§ 1, 2, 71 Stat. 369.
11363(a)(2).	49:20b(2) (4th sentence words between 8th comma and period).	
11363(b).....	49:20b(3) (2d and 3d sentences).	
11363(c).....	49:20b(3) (less 1st–3d and last sentences).	

In subsection (a)(1), the words "After making the findings required under section 11362(a) of this title" are added for clarity. The words "the Commission may approve and authorize the change if it is assented to" are substituted for "If the Commission shall find that as a result of such submission the proposed alteration or modification has been assented to . . . the Commission shall enter an order approving and authorizing the proposed alteration or modification upon the terms and conditions and with amendments, if any, so determined to be just and reasonable" for clarity and to eliminate redundancy in view of subsection (b) of the restated section. The words "The Commission may increase the percentage required for assent under this subsection" are substituted for "such larger percentage, if any as the Commission may determine" for clarity. The words "just and reasonable" are omitted in view of the criteria for an increase under the revised section and in view of section 706 of title 5. The words "at least 25" are substituted for "25 . . . or more" for consistency.

In subsection (a)(2), the words "The carrier may withdraw its application" are substituted for "(unless the applicant, carrier shall withdraw its application)" for clarity. The words "must require the carrier to submit" are substituted for "shall cause the carrier to submit" for clarity. The words "in such manner as it shall direct" are omitted as unnecessary in view of the restatement in section 11364(a) of the revised title.

In subsection (b)(1), the words "In determining . . . when making a finding under section 11362(a) of this title" are substituted for "For the purpose of the finding of the Commission referred to in paragraph (2) of this section" for clarity. The words "the percentage of outstanding securities" are substituted for "as to whether the required percentage of the aggregate principal amount of number of shares outstanding of each class of securities affected by any proposed alteration or modification has assented to the making of such alteration or modification" for clarity and to eliminate redundancy in view of the restatement. The words "is considered" are substituted for "shall be deemed" for clarity. The words "in its discretion" are omitted as surplus. The words "that evidence of indebtedness" are substituted for "the evidence or evidences of indebtedness secured by such security" for clarity. The words "When that security is considered to be outstanding" are substituted for "Whenever any such pledged security is, for said purposes, to be deemed outstanding" for consistency. The words "in respect of such security" are omitted as unnecessary in view of the restatement. The words "notwithstanding another instrument" are substituted for "any express or implied provision in any mortgage, indenture, deed of trust, note or other instrument to the contrary notwithstanding" as being more inclusive. The words "as follows" are omitted as surplus. The word "instrument" is substituted for "mortgage, indenture, deed of trust, or other instrument" for consistency. The words "and in any such case" are omitted as surplus.

In subsection (b)(2), the words "shall require" are substituted for "shall cause" for clarity. The words "in such manner as it shall direct" are omitted as unnecessary in view of the restatement. The words "as the Commission shall have determined to be just and reasonable" are omitted as unnecessary in view of the restatement. The words "referred to in paragraph (1)(A) and (B) of this subsection as appropriate" are substituted for "issued and outstanding pursuant to such mortgage, indenture, deed of trust, or other instrument, or . . . not so issued" for clarity and to eliminate redundancy. The words "A carrier is not required to submit" are substituted for "need not be submitted" for clarity. The words "but assent in respect of any such security shall be determined as hereinbefore in this section provided" are omitted as surplus.

In subsection (c), the words "For the purposes of this section" are omitted as unnecessary in view of the restatement. The words "Commission determines" are substituted for "in the determination of the Commission" for clarity. The words "the assent of the holder of a security not entitled to vote for the election of directors of the carrier or an evidence of indebtedness is in the control of the carrier or of a person controlling the carrier" are substituted for "a security (other than a security entitled to vote for the election of directors of the carrier) or an evidence of indebtedness . . . the assent of the holder thereof . . . is within the control of the carrier or of any person or persons controlling the carrier" for clarity.

§ 11364. Procedure

(a) The Commission may prescribe the manner in which assents, assurances of assent, or rejections of the security holders may be solicited whether the solicitation is made before or after the Commission approves and authorizes the proposed change.

(b) The Commission may approve a bank or trust company, incorporated under the law of the United States or a State, that is a member of the Federal Reserve System and has a capital and surplus of at least $2,000,000, to receive assents and revocations of assents from security holders. The Commission may require the security holders to send those assents and revocations to that bank or trust company. That bank or trust company shall certify the result of the submission to the Commission. The Commission may rely on that certification as conclusive evidence in determining the result of that submission.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1443.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11364.....	49:20b(2) (5th-7th sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 20b(2) (5th-7th sentences); added Apr. 9, 1948, ch. 180, § 2, 62 Stat. 163; Aug. 16, 1957, Pub. L. 85-150, § 1, 71 Stat. 369.

The words "may prescribe" are substituted for "shall have the power to make such general rules and regulations and such special requirements in any particular case" for clarity in view of section 10321(a) of the revised title giving the Commission the power to prescribe regulations to carry out the revised subtitle. The words between the semicolon and period in 49:20b(2) (5th sentence) are omitted as surplus. The words "The Commission may rely" are substituted for "the Commission may, in its discretion, rely" for clarity.

§ 11365. Effect of change on other persons

(a) When a change becomes effective under this subchapter, the change is binding on, and changes the rights of—

(1) each holder of a security of the carrier of each class affected by the change; and

(2) a trustee or other party to an instrument under which a class of securities has been issued or by which it is secured.

(b) An authorization and approval of a change under this subchapter is authority for, and approval of, a corresponding change of the obligation of another carrier that assumed liability related to that class of securities if that

carrier consents to the change in writing. When consent is given, the corresponding change becomes effective when the change of the class of securities or instrument becomes binding. A person who is liable or obligated on a class of securities issued by a carrier is a carrier with respect to that class for the purposes of this subchapter.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1443.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11365(a).....	49:20b(2) (less 1st-9th sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 20b(2) (less 1st-9th sentences), (4); added Apr. 9, 1948, ch. 180, § 2, 62 Stat. 164.
11365(b).....	49:20b(4).	

In subsection (a), the word "securities" is substituted for "obligations" for consistency in view of the definition of "security" in section 11301(a)(2) of the revised title. The word "binding" is retained for clarity in view of the context. The words "changes the rights of" are substituted for "shall be correspondingly altered or modified" for clarity.

In subsection (b), the words "under this subchapter" are substituted for "hereunder" for clarity. The words "is authority for, and approval of", are substituted for "shall be deemed to constitute authorization and approval of" for clarity. The words "liability related to that class of securities" are substituted for "liability in respect of such class of securities as guarantor, endorser, surety, or otherwise" for clarity and as being more inclusive. The word "if" is substituted for "*Provided*, That" for clarity. The words "consents to the change in writing" are substituted for "consents in writing to such alteration or modification of such class of securities" for clarity. The words "in respect of which it has assumed liability or of the instrument pursuant to which such class of securities has been issued or by which it is secured" are omitted as surplus. The words "When consent is given" are substituted for "and, such consent having been given" for clarity. The words "without other action" are omitted as surplus. The words "becomes binding" are substituted for "shall become and be binding" for clarity. The words "contingently or otherwise" are omitted as surplus. The words "is a carrier" are substituted for "shall . . . be deemed a carrier" for clarity.

§ 11366. Reports

A carrier receiving approval and authorization to make a change under this subchapter shall report the action taken by it in making that change to the Interstate Commerce Commission. The Commission may require periodic or special reports.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1443.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11366.....	49:20b(6).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 20b(6); added Apr. 9, 1948, ch. 180, § 2, 62 Stat. 166.

The words "carrier . . . shall report . . . to" are added for clarity. The words "The Commission shall require" are omitted in view of the restatement of 49:20b(6). The words "The Commission may require periodic or special" are added for clarity to reflect the discretionary power of the Commission. The word "hereafter" is omitted as surplus. The word "receiving" is substituted for "which shall . . . secure" for clarity. The words "which shall show" are omitted as unnecessary in view of the restatement.

§ 11367. Application of other laws

(a) Section 78n(a) of title 15 does not apply to a solicitation related to a proposed change under this subchapter.

(b) If the Interstate Commerce Commission finds an issuance of a security, that is an interest in a railroad equipment trust as defined in section 77c(a)(6) of title 15, under this subchapter complies with section 11301 of this title, it is considered to be an issuance subject to section 11301 within the meaning of section 77c(a)(6) of title 15. Section 77e of that title does not apply to the issuance, sale, or exchange of certificates of deposit representing securities of, or claims against, a carrier that are issued by committees in proceedings under this subchapter. Those certificates and transactions under this subchapter are exempt from subchapter I of chapter 2A of title 15.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1444.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11367(a).....	49:20b(9).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 20b(9), (11); added Apr. 9, 1948, ch. 180, § 2, 62 Stat. 166.
11367(b).....	49:20b(11).	

In subsection (a), the word "change" is substituted for "alteration or modification" for consistency.

In subsection (b), the words "the Interstate Commerce Commission finds . . . complies" are substituted for "which shall be found by the Commission to comply" for clarity. The words "that is an interest in a railroad equipment trust as defined in section 77c(a)(6) of title 15" are added for consistency in view of the amendments made by section 308 of the Railroad Revitalization and Regulatory Reform Act of 1976. The words "is considered" are substituted for "shall be deemed" for clarity. The last sentence is substituted for the words "and said certificates of deposit and transactions therein shall, for the purposes of said Securities Act, be deemed to be added to those exempted by section 77c and 77e of title 15" for clarity.

CHAPTER 115—FEDERAL-STATE RELATIONS

Sec.

11501. Interstate Commerce Commission authority over intrastate transportation.
11502. Conferences and joint hearings with State authorities.
11503. Tax discrimination against rail transportation property.
11504. Withholding State and local income tax by certain carriers.
11505. State action to enjoin rail carriers from certain actions.
11506. Registration of motor carriers by a State.
11507. Prison-made property governed by State law.

§ 11501. Interstate Commerce Commission authority over intrastate transportation

(a)(1) The Interstate Commerce Commission shall prescribe the rate, classification, rule, or practice for transportation or service provided by a carrier subject to the jurisdiction of the Commission under subchapter I or IV of chapter 105 of this title when the Commission finds that a rate, classification, rule, or practice of a State causes—

(A) between persons or localities in intrastate commerce and in interstate and foreign commerce, unreasonable discrimination against those persons or localities in interstate or foreign commerce; or

(B) unreasonable discrimination against or imposes an unreasonable burden on interstate or foreign commerce.

(2) The Commission may make a finding under this subsection involving a carrier providing transportation subject to its jurisdiction under subchapter I of chapter 105 of this title without separating interstate and intrastate property, revenues, and expenses, and without considering the total operations, or their results, of a carrier or group of carriers operating entirely in one State.

(b)(1) The Commission has exclusive authority to prescribe an intrastate rate for transportation provided by a rail carrier subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title when—

(A) a rail carrier files with an appropriate State authority a change in an intrastate rate, or a change in a classification, rule, or practice that has the effect of changing an intrastate rate, that adjusts the rate to the rate charged on similar traffic moving in interstate or foreign commerce; and

(B) the State authority does not act finally on the change by the 120th day after it was filed.

(2) When a rail carrier files an application with the Commission under this subsection, the Commission shall prescribe the intrastate rate under the standards of subsection (a) of this section. Notice of the application shall be served on the State authority.

(c) The Commission may take action under this section only after a full hearing. Action of the Commission under this section supersedes State law or action taken under State law in conflict with the action of the Commission.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1444.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11501(a).....	49:13(4) (less 1st–10th words in 1st sentence and less last sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 383, § 13(4); Feb. 28, 1920, ch. 91, § 416, 41 Stat. 484; Aug. 12, 1958, Pub. L. 85-625, § 4, 72 Stat. 570; Feb. 5, 1976, Pub. L. 94-210, § 210, 90 Stat. 46.
	49:1006(f) (4th sentence less 1st–10th words).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 406(f) (4th and last sentences); added May 16, 1942, ch. 318, § 1, 56 Stat. 288.
11501(b).....	49:13(5) (1st, 2d, and 3d sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 13(5); added Feb. 5, 1976, Pub. L. 94-210, § 210, 90 Stat. 46; Oct. 19, 1976, Pub. L. 94-555, § 220(l), 90 Stat. 2630.
11501(c).....	49:13(4) (1st–10th words in 1st sentence and last sentence). 49:13(5) (less 1st, 2d, and 3d sentences). 49:1006(f) (1st–10th words in 4th sentence and last sentence).	

The section consolidates and restates the source provisions for clarity. The word "rate" is substituted for "rate, fare, or charge" in view of the definition of "rate" in section 10102 of this title.

In subsection (a)(1), the word "rule" is substituted for "regulation" for consistency when referring to carriers. The word "unreasonable" is substituted for "undue, unreasonable, or unjust" for consistency. The words "discrimination against" are substituted for "advantage, preference, or prejudice" for consistency. See the revision note to section 10101 of the revised title. The words "which is hereby forbidden and declared to be unlawful" are omitted as surplus. The words "in such manner as, in its judgment, will remove such" are omitted as surplus. The words "on the one hand" and "on the other hand" are omitted as surplus. The words "maximum or minimum, or maximum and minimum" are omitted as surplus.

In subsection (a)(2), the words "or their results" are substituted for "results thereof" for clarity. The word "operating" is inserted for clarity. The words "entirely in" are substituted for "wholly within" for clarity.

In subsection (b)(1), the word "prescribe" is substituted for "determine and prescribe" to eliminate redundancy. The words "State authority" are substituted for "administrative or regulatory body of a State" for consistency. The word "has" is substituted for "shall have" for clarity. The word "when" is substituted for "if" for clarity. The words "rail carrier" are substituted for "carrier by railroad" for clarity and consistency. The words "that adjusts" are substituted for "for the purpose of adjusting" for clarity. The word "by" is substituted for "within" for clarity. The words "does not act" are substituted for "has not . . . acted" for clarity.

In subsection (b)(2), the words "determine and" are omitted to eliminate redundancy. The word "intrastate" is added for clarity. The words "under . . . of subsection (a) of this section" are substituted for "according to . . . set forth in paragraph (4) of this section" to conform to the revised title. The words "thereafter to be charged" are omitted as unnecessary.

In subsection (c), the last sentence is substituted for 49:13(4) (last sentence), (5) (4th sentence), and 1006(f) (last sentence) for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11126 of this title.

§ 11502. Conferences and joint hearings with State authorities

(a)(1) In carrying out this subtitle as it applies to a class of persons providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, III, or IV of chapter 105 of this title, the Commission may—

(A) confer and hold joint hearings with the State authorities having regulatory jurisdiction of that class when the conference or hearing is related to an investigation of the relationship between rate structures and practices of carriers providing transportation or service subject to the jurisdiction of the State authorities and of the Commission, and the Commission may take action as a result of the investigation that may affect the rate-making authority of a State; and

(B) cooperate with and use the services, records, and facilities of the State authorities.

(2) In carrying out this subtitle as it applies to motor carriers and brokers providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, the Commission may—

(A) confer and hold joint hearings with State authorities;

(B) cooperate with and use the services, records, and facilities of State authorities; and

(C) make cooperative agreements with a State to enforce the economic laws and regulations of a State and the United States concerning highway transportation.

(b) When an investigation under this subtitle involving a common carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter I or IV of chapter 105 of this title, is about a rate, classification, rule, or practice of a State, the Commission shall notify the interested State of the proceeding before disposing of the issue.

(c) When a representative of a State authority sits with the Commission in an investigation about a carrier subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title, the representative may be given an allowance for travel and subsistence expenses. The Commission may determine the amount of the allowance.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1445.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11502(a)(1).	49:13(3) (less 1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 13(2) (last sentence), (3); added Feb. 28, 1920, ch. 91, § 416, 41 Stat. 484; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 8, 1940, ch. 722, § 9, 54 Stat. 910; Aug. 12, 1958, Pub. L. 85–625, § 4, 72 Stat. 570.
	49:1006(f) (2d and 3d sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 406(f) (less 4th and last sentences); added May 16, 1942, ch. 318, § 1, 56 Stat. 288.
11502(a)(2).	49:305(f) (less 4th sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(f) (less 4th sentence); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 548; Sept. 18, 1940, ch. 722, § 20(c)(2), 54 Stat. 922; Sept. 6, 1965, Pub. L. 89–170, § 1, 79 Stat. 648.

HISTORICAL AND REVISION NOTES—Continued

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11502(b).....	49:13(3) (1st sentence). 49:1006(f) (less 2d-last sentences).	
11502(c).....	49:13(2) (last sentence).	

In subsection (a), the words "In carrying out this subtitle" are substituted for "in the enforcement of any provision of this chapter or chapter 12 of this title" in 49:13(3) and "in the enforcement of any provision of this chapter" in 49:1006(f) for clarity and to conform to the revised title. The words "and corporations" are omitted in view of the definition of "person" in section 10102 of the revised title. The words "providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, III, or IV of chapter 105 of this title" and "providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title" are substituted for "subject to this chapter or chapter 12 of this title" in 49:13(3), "subject to this chapter" in 49:1006(f), and "under this chapter" in 49:305(f) for clarity and to conform to the revised title. The words "and to that end is authorized and empowered, under rules to be prescribed by it, and which may be modified from time to time" in 49:13(3) and "and to that end the Commission is authorized under rules to be prescribed by it" in 49:1006(f) are omitted as unnecessary in view of the restatement and section 10321 of the bill giving the Commission general authority to carry out the subtitle and prescribe regulations. The words "is also authorized to avail itself of the" are omitted as unnecessary in view of the restatement. The words "in connection with any matter arising in any proceeding under this chapter" are omitted as unnecessary in view of the restatement. The words "in the enforcement or administration of any provision of this chapter" in 49:305(f) are omitted as unnecessary in view of the restatement. The words "and safety" in 49:305(f) are omitted as being transferred to the Secretary of Transportation.

In subsection (b), the words "When an investigation under this subtitle" are substituted for "Whenever in any investigation under the provisions of this chapter, or in any investigation instituted upon petition of" for clarity. The words "providing transportation or service subject to the jurisdiction of the Commission under subchapter I or IV of chapter 105 of this title" are inserted for clarity. The words "is about a" are substituted for "shall be brought in issue" for clarity. The words "made or imposed by" are omitted as surplus. The words "disposing of" are substituted for "proceeding to hear and dispose of" for clarity and as being more inclusive.

In subsection (c), the words "subchapter . . . III of chapter 105" are used to make the subsection apply to water carriers since the words "under the provisions of this section" require that result in view of 49:13(3). The words "in cases pending before the Commission" are omitted as unnecessary in view of the restatement. The words "may be given" are substituted for "shall receive" for clarity. The words "may determine" are substituted for "shall provide" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 47 section 410.

§ 11503. Tax discrimination against rail transportation property

(a) In this section—

(1) "assessment" means valuation for a property tax levied by a taxing district.

(2) "assessment jurisdiction" means a geographical area in a State used in determining

the assessed value of property for ad valorem taxation.

(3) "rail transportation property" means property, as defined by the Interstate Commerce Commission, owned or used by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title.

(4) "commercial and industrial property" means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy.

(b) The following acts unreasonably burden and discriminate against interstate commerce, and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

(1) assess rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(2) levy or collect a tax on an assessment that may not be made under clause (1) of this subsection.

(3) levy or collect an ad valorem property tax on rail transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(4) impose another tax that discriminates against a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title.

(c) Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section. Relief may be granted under this subsection only if the ratio of assessed value to true market value of rail transportation property exceeds by at least 5 percent, the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction. The burden of proof in determining assessed value and true market value is governed by State law. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

(1) an assessment of the rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the assessed value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all other commercial and industrial property; and

(2) the collection of an ad valorem property tax on the rail transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1445.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11503.....	49:26c.	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 28; added Feb. 5, 1976, Pub. L. 94-210, § 306, 90 Stat. 54; Oct. 19, 1976, Pub. L. 94-555, §220(o), 90 Stat. 2630.

In subsection (a), the words "for purposes of" in 49:26c(3) are omitted as surplus. The words "such as a State or a county, city, township, or special purpose district . . . which is a unit" are omitted as unnecessary in view of the restatement. The words "all other commercial and industrial property" are omitted as unnecessary in view of the restatement. The words "real or personal" are omitted as surplus. The words "providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title" are substituted for "subject to this part" for clarity and to conform to the revised title. The words "National Railroad Passenger Corporation" are omitted as unnecessary in view of the restatement and the Act establishing the Corporation.

In subsection (b), the words "Notwithstanding the provisions of section 202(b)" are omitted as unnecessary because of the restatement of the source provisions of section 10521(b)(4) of the revised title. The word "unreasonably" is substituted for "unreasonable and unjust" for consistency. See the revision note to section 10101 of the revised title. The words "is declared" are omitted as surplus. The words "may not do any of them" are substituted for "any action described in this subsection" and "It is unlawful for . . . to commit any of the following prohibited acts" for clarity. The word "political" is omitted as surplus. The words "for a State" are substituted for "on behalf of such State" for clarity. The words "for purposes of" in 49:26c(1) are omitted as surplus. The words "has a higher" are substituted for "bears a higher" for clarity. The words "that exceeds" are substituted for "higher than" for clarity. The words "that discriminates against" are substituted for "which results in discriminatory treatment" for clarity. The words "providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title" are substituted for "subject to this part" for clarity and to conform to the revised title.

In subsection (c), the words "or of the constitution or laws of any State" are omitted as unnecessary in view of article VI of the Constitution. The words "has jurisdiction" are substituted for "shall have jurisdiction" for clarity. The words "such mandatory or prohibitive" and "interim equitable relief" are omitted as unnecessary in view of the restatement. The word "prevent" is substituted for "prevent, restrain, or terminate" to eliminate redundancy. The words "violation of" are substituted for "any acts in violation of" for clarity. The words "concurrent with" are substituted for "shall not be exclusive of" for clarity and to restate the rule in the positive. The words "United States" are substituted for "Federal" for consistency. The words "may have in the absence of this subsection" are omitted as unnecessary in view of the restatement. The words "Relief may be granted . . . only

if" are substituted for "no relief may be granted . . . unless" for clarity and to restate the rule in the positive. The words "is governed by" are substituted for "shall be that declared by" for clarity. The word "if" is substituted for "in the event" for clarity. The words "cannot be determined" are substituted for "cannot be established" for clarity. The words "hearing the complaint that transportation property has been or is being assessed or taxed in contravention of the provisions of this section" are omitted as unnecessary in view of the restatement. The words "court shall find, as a violation of this section" are substituted for "court shall hold unlawful" for clarity. Paragraph (2)(b) of 49:26c is omitted as a temporary provision and included as a conforming provision in section 2(b) of the bill.

EFFECTIVE DATE

Section 2(b) of Pub. L. 95-473 provided: "Section 11503 of title 49, as stated in the first section of this Act, is effective after February 4, 1979."

§ 11504. Withholding State and local income tax by certain carriers

(a)(1) In this subsection, an employee is deemed to have earned more than 50 percent of pay in a State or subdivision of a State if the employee—

(A) performs regularly assigned duties on a locomotive, car, or other track-borne vehicle in at least 2 States and the mileage traveled in one State or subdivision of that State is more than 50 percent of the total mileage traveled by the employee while employed during the calendar year; or

(B) is engaged principally in maintaining roadways, signals, communications, and structures or in operating motortrucks from railroad terminals in at least 2 States and the percent of the time worked by the employee in one State or subdivision of that State is more than 50 percent of the total time worked by the employee while employed during the calendar year.

(2) A rail, express, or sleeping car carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall withhold from the pay of an employee referred to in paragraph (1) of this subsection only income tax required to be withheld by the laws of a State, or subdivision of that State—

(A) in which the employee earns more than 50 percent of the pay received by the employee from the carrier; or

(B) that is the residence of the employee (as shown on the employment records of the carrier), if the employee did not earn in one State or subdivision more than 50 percent of the pay received by the employee from the carrier during the preceding calendar year.

(b)(1) In this subsection—

(A) "State" includes a State, territory, or possession of the United States, and the Commonwealth of Puerto Rico.

(B) an employee is deemed to have earned more than 50 percent of pay in a State or subdivision of a State in which the mileage traveled by the employee in that State or subdivision is more than 50 percent of the total mileage traveled by the employee while employed during the calendar year.

(2) A motor carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and a motor private carrier shall withhold from the pay of an employee having regularly assigned duties on a motor vehicle in at least 2 States, only income tax required to be withheld by the laws of a State, or subdivision of that State—

(A) in which the employee earns more than 50 percent of the pay received by the employee from the carrier; or

(B) that is the residence of the employee (as shown on the employment records of the carrier), if the employee did not earn in one State or subdivision more than 50 percent of the pay received by the employee from the carrier during the preceding calendar year.

(c)(1) In this subsection, an employee is deemed to have earned more than 50 percent of pay in a State or subdivision of that State in which the time worked by the employee in the State or subdivision is more than 50 percent of the total time worked by the employee while employed during the calendar year.

(2) A water carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title or a water carrier or class of water carriers providing transportation on inland or coastal waters under an exemption under this subtitle shall file income tax information returns and other reports only with—

(A) the State and subdivision of residence of the employee (as shown on the employment records of the carrier); and

(B) the State and subdivision in which the employee earned more than 50 percent of the pay received by the employee from the carrier during the preceding calendar year.

(3) This subsection applies to pay of a master, officer, or seaman who is a member of the crew on a vessel engaged in foreign, coastwise, intercoastal or noncontiguous trade or in the fisheries of the United States.

(d) A rail, express, sleeping car, motor, and motor private carrier withholding pay from an employee under subsection (a) or (b) of this section shall file income tax information returns and other reports only with—

(1) the State and subdivision of residence of the employee; and

(2) the State and subdivision in which withholding of pay is required under subsection (a) or (b) of this section.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1446.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11504(a).....	49:26a (less (a) words after semicolon).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §§ 26, 226A, 324; added Dec. 23, 1970, Pub. L. 91-569, §§ 1, 2(b), 3(a), 84 Stat. 1499.
11504(b).....	49:325a (less (a) words after semicolon).	

HISTORICAL AND REVISION NOTES—Continued

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11504(c).....	49:922b.	
11504(d).....	49:26a ((a) words after semicolon). 49:325a ((a) words after semicolon).	

The section restates and consolidates the source provisions in one section for clarity. The word "pay" is substituted for "compensation" for consistency in view of chapter 55 of title 5. The words "motor private carrier" are substituted for "private carrier of property by motor vehicle" for consistency in view of the definition of "motor private carrier" in section 10102 of this title. The words "shall withhold" are substituted for "No . . . shall be withheld . . . other than" and "withholding shall be required" for clarity. The words "in at least 2 States" are substituted for "more than one State" for clarity and consistency. The words "received by the employee from the carrier" are inserted for clarity. The words "withholding pay from an employee under subsection (a) or (b) of this section" are inserted for clarity. The words "carrier . . . shall file" are substituted for "nor shall such carrier file . . . other than" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10521 of this title; title 26 section 6362.

§ 11505. State action to enjoin rail carriers from certain actions

(a) The attorney general of a State or transportation regulatory authority of a State or area affected by a violation of sections 10901–10907 of this title, may bring a civil action to enjoin a rail carrier from violating those sections.

(b) A transportation regulatory authority of a State affected by an abandonment of service by a freight forwarder in violation of section 10933 of this title may bring a civil action to enjoin the abandonment.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1448.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11505(a).....	49:1(18)(e) (related to State enforcement). 49:1a(9) (related to State enforcement).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §§ 1(18)(e) (related to State enforcement) and 1a(9) (related to State enforcement); added Feb. 5, 1976, Pub. L. 94–210, §§ 801(a), 802, 90 Stat. 126, 130.
11505(b).....	49:1010(i) (related to State enforcement).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 410(i) (related to State enforcement); added May 16, 1942, ch. 318, § 1, 56 Stat. 293.

In subsection (a), the words "of a State" are inserted for clarity. The words "may bring" are substituted for "commenced and maintained" for clarity. The words "sections 10901–10907 of this title" are inserted for clarity.

In subsection (b), the words "transportation regulatory authority" are substituted for "commission or regulating body" for clarity and consistency. The words "of service by a freight forwarder in violation of section 10933 of this title" are inserted for clarity. The words "civil action" are substituted for "suit" for clarity and consistency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11126 of this title.

§ 11506. Registration of motor carriers by a State

(a) In this section, "standards" and "amendments to standards" mean the specification of forms and procedures required by regulations of the Interstate Commerce Commission to prove the lawfulness of transportation by motor carrier referred to in section 10521(a)(1) and (2) of this title by—

(1) filing and maintaining certificates and permits issued to the motor carrier by the Commission;

(2) registering motor vehicles operating under the certificates and permits;

(3) filing and maintaining proof of required insurance coverage or qualification as a self-insurer; and

(4) filing the name of a local agent for service of process.

(b) The requirement of a State that a motor carrier, providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and providing transportation in that State, register the certificate or permit issued to the carrier under section 10922 or 10923 of this title is not an unreasonable burden on transportation referred to in section 10521(a)(1) and (2) of this title when the registration is completed under standards of the Commission under subsection (c) of this section. When a State registration requirement imposes obligations in excess of the standards, the part in excess is an unreasonable burden.

(c)(1) The Commission shall maintain standards and amendments to standards (A) prepared and certified to it by the national organization of the State Commissions, and (B) prescribed by the Commission. If the national organization determines to withdraw entirely standards prescribed by the Commission, the Commission shall prescribe new standards by the end of the first year after the national organization determines to withdraw the standards.

(2) An amendment to the standards prepared and certified by the national organization and prescribed by the Commission is effective when the amendment is prescribed or at another time as determined by the national organization.

(d) The national organization shall consult with the Commission and representatives of motor carriers subject to the State registration requirement when preparing amendments to the standards. Different amendments may be prescribed for each class of motor carriers as warranted by the differences in the operations of each class.

(e) This section does not—

(1) authorize standards in conflict with regulations of the Commission; or

(2) affect the authority of the Commission to interpret its regulations and certificates

and permits issued under section 10922 or 10923 of this title.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1448.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11506.....	49:302(b) (less (1)).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 202(b) (less (1)); Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 17, 54 Stat. 920; added Sept. 6, 1965, Pub. L. 89–170, § 2, 79 Stat. 648; Oct. 28, 1974, Pub. L. 93–496, § 14, 88 Stat. 1532.

In subsection (a), the words "to prove" are substituted for "to evidence" for clarity. The words "transportation referred to in section 10521(a)(1) and (2) of this title" are substituted for "interstate operations of a carrier" in view of the restatement of the jurisdictional requirements in section 10521(a) of the revised title. The words "current records of" are omitted as surplus. The words "to the motor carrier" are inserted for clarity. The word "registering" is substituted for "registering and identifying" to eliminate redundancy. The words "proof of" are substituted for "evidence of" for clarity. The word "required" is substituted for "currently effective" for clarity. The words "under rules and regulations of the Commission" are omitted as unnecessary in view of section 10321(a) of the revised title giving the Commission general authority to carry out the subtitle and prescribe regulations. The word "name" is substituted for "resignations" for clarity.

In subsection (b), the words "providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title" are substituted for "operating in interstate or foreign commerce" for clarity and to conform to the revised title. The words "providing transportation in that State" are substituted for "within the border of that State" for clarity. The words "certificate or permit issued to the carrier under section 10922 or 10923 of this title" are substituted for "certificate of public convenience and necessity or permit issued by the Commission" in view of the restatement and to conform to the revised title. The words "is not" are substituted for "shall not constitute" for clarity. The words "unreasonable burden" are substituted for "undue burden" for clarity and consistency. The words "transportation referred to in section 10521(a)(1) and (2) of this title" are substituted for "interstate commerce" in view of the restatement of the jurisdictional requirements in section 10521(a) of this title. The word "when" is substituted for "provided" for clarity. The word "completed" is substituted for "accomplished" for clarity. The word "under" is substituted for "in accordance with" for clarity. The words "standards of the Commission under subsection (c) of this section" are inserted for clarity. The words "When a State registration requirement imposes obligations in excess of the standards" are substituted for "To the extent that any State requirements for registration of motor carrier certificates or permits issued by the Commission impose obligations which are in excess of the standards or amendments thereto promulgated under this paragraph" for clarity. The words "part in excess" are substituted for "such excessive requirements" for clarity.

In subsection (c)(1), the words "The Commission shall maintain" are substituted for "As so certified, such standards, or amendments thereto, shall be promulgated forthwith by the Commission" for clarity and in view of the execution of the provision. The words "prepared and certified" are substituted for "determined and officially certified" for clarity. The words "referred to in section 305(f) of this title" are omitted as unnecessary in view of the restatement. The words "shall become effective five years from the date of such promulgation" are omitted as executed. The words "If the national organization of the State commissions fails to determine and certify to the Commission such standards within eighteen months from September 6, 1965" are omitted as executed. The word "entirely" is substituted for "in their entirety" for clarity. The words "the Commission shall" are substituted for "it shall be the duty of the Commission" for clarity. The word "prescribe" is substituted for "devise and promulgate" for clarity. The words "by the end of" are substituted for "within . . . thereafter" for clarity. The words "from time to time" are omitted as surplus.

In subsection (c)(2), the words "prepared . . . and prescribed" are substituted for "which are determined . . . and promulgated" for clarity. The words "on such initial effective date" and "prior to the initial effective date of such standards" are omitted as executed. The words "when the amendment is prescribed" are substituted for "at the time of promulgation" for clarity. The words "at another time" are substituted for "at such other time" for clarity. The words "subsequent to promulgation by the Commission" and "after such standards become effective initially" are omitted as unnecessary in view of the restatement.

In subsection (d), the words "when preparing" are substituted for "In determining" for clarity. The word "prescribed" is substituted for "determined and promulgated" for clarity.

In subsection (e), the words "This section does not" are substituted for "Nothing in this paragraph shall be construed" for clarity. The word "regulations" is substituted for "rule or regulation," when referring to the Commission, for consistency. The words "affect the authority of the Commission" are substituted for "deprive the Commission . . . of its jurisdiction" for clarity. The words "when there is a reasonable question of interpretation or construction" are omitted as unnecessary in view of the restatement. The word "interpret" is substituted for "interpret or construe" to eliminate redundancy. The words "certificates and permits issued under section 10922 or 10923 of this title" are substituted for "certificates of public convenience and necessity, permits" in view of the restatement relating to "certificates of public convenience and necessity" in section 10922 of the revised title and "permits" in section 10923 of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 47 section 410.

§ 11507. Prison-made property governed by State law

Goods, wares, and merchandise produced or mined in a penal institution or by a prisoner not on parole or probation and transported into and used, sold, or stored in a State or territory or possession of the United States, is subject to the laws of that State, territory, or possession. This section does not apply to commodities produced in a penal institution of the United States Government for its use.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1449.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11507.....	49:60.	Jan. 19, 1929, ch. 79, §§ 1, 2, 45 Stat. 1084.

The words "or in part" are omitted as surplus. The words "Five years after January 19, 1929" are omitted

as executed. The words "produced or mined" are substituted for "manufactured, produced, or mined" to eliminate redundancy. The word "prisoner" is substituted for "convicts or prisoners" to eliminate redundancy. The words "not on parole or probation" are substituted for "except . . . on parole or probation" for clarity. The words "penal institution" are substituted for "penal and/or reformatory institutions" and "penal and correctional institutions" to eliminate redundancy. The words "to the operation and effect of" are omitted as surplus. The word "used" is substituted for "use, consumption" to eliminate redundancy. The words "transported into" are substituted for "transported . . . and . . . shall upon arrival and delivery" for clarity and consistency in view of the definition of "transportation" in section 10102 of the revised title. The words "This section does not apply to commodities produced" are substituted for "except commodities manufactured in" for clarity. The words "United States Government" are substituted for "Federal" and "Federal Government" for clarity. The words "to the same extent and in the same manner as though such goods, wares, and merchandise had been manufactured, produced, or mined in such State or Territory, and shall not be exempt therefrom by reason of being introduced in the original package or otherwise" are omitted as unnecessary in view of the restatement.

CHAPTER 117—ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES

Sec.
11701. General authority.
11702. Enforcement by the Interstate Commerce Commission.
11703. Enforcement by the Attorney General.
11704. Action by a private person to enjoin abandonment of service.
11705. Rights and remedies of persons injured by certain carriers.
11706. Limitation on actions by and against common carriers.
11707. Liability of common carriers under receipts and bills of lading.
11708. Private enforcement: motor carrier and freight forwarder licensing.
11709. Liability for issuance of securities by certain carriers.
11710. Liability when property is delivered in violation of routing instructions.

§ 11701. General authority

(a) The Interstate Commerce Commission may begin an investigation under this subtitle on its own initiative or on complaint. If the Commission finds that a carrier or broker is violating this subtitle, the Commission shall take appropriate action to compel compliance with this subtitle. The Commission may take that action only after giving the carrier or broker notice of the investigation and an opportunity for a proceeding.

(b) A person, including a governmental authority, may file with the Commission a complaint about a violation of this subtitle by a carrier providing, or broker for, transportation or service subject to the jurisdiction of the Commission under this subtitle. The complaint must state the facts that are the subject of the violation and, if it is against a water carrier, must be made under oath. The Commission may dismiss a complaint it determines does not state reasonable grounds for investigation and action. However, the Commission may not dismiss a complaint made against a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title because of the absence of direct damage to the complainant.

(c) A formal investigative proceeding begun by the Commission under subsection (a) of this section related to a rail carrier is dismissed automatically unless it is concluded by the Commission with administrative finality by the end of the 3d year after the date on which it was begun.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1449.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11701(a).....	49:5(8) (less last sentence), (10).	Feb. 4, 1887, ch. 104, § 5(8) (less last sentence), (10), 24 Stat. 380; Feb. 28, 1920, ch. 91, § 407, 41 Stat. 480; June 16, 1933, ch. 91, § 202, 48 Stat. 216; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 7, 54 Stat. 908; Feb. 5, 1976, Pub. L. 94-210, § 403(a), (b)(4), (5), 90 Stat. 63, 65.
	49:13(1) (1st sentence less words before semicolon, and last sentence), (2) (1st and 2d sentences).	Feb. 4, 1887, ch. 104, § 13(1), (2) (less last sentence), 24 Stat. 383; restated June 18, 1910, ch. 309, § 11, 36 Stat. 550; Feb. 28, 1920, ch. 91, § 416, 41 Stat. 484; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
	49:304(c) (1st sentence words after 5th comma, 2d sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(c); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 547; Sept. 18, 1940, ch. 722, § 20(b)(3), 54 Stat. 922.
	49:904(e) (1st sentence words after 2d comma), 915(b).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §§ 304(e), 315(b); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 934, 946.
	49:1003(f) (1st sentence), 1006(a) (last sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §§ 403(f), 406(a); added May 16, 1942, ch. 318, § 1, 56 Stat. 286, 288.
	49:1011(d), (f).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 411(d), (f); added May 16, 1942, ch. 318, § 1, 56 Stat. 294.
11701(b).....	49:13(1) (1st sentence words before semicolon), (2) (less 1st, 2d, and last sentences). 49:304(c) (less 1st sentence words after 5th comma and 2d sentence). 49:316(e) (less 2d sentence). 49:904(e) (less 1st sentence words after 2d comma). 49:907(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 216(e) (less 2d sentence); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 558. Feb. 4, 1887, ch. 104, 24 Stat. 379, § 307(a); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 937.

HISTORICAL AND REVISION NOTES—Continued

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
	49:1003(f) (less 1st sentence), 1006(a) (less last sentence).	
11701(c).....	49:17(14)(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 17(14)(a); added Feb. 5, 1976, Pub. L. 94-210, § 303(b), 90 Stat. 50.

The section consolidates and restates the source provisions for clarity.

Subsection (a) is patterned after 49:1003(f) (1st sentence) and 1006(a) (last sentence) for clarity. The words "an investigation under this subtitle" are substituted for "investigate . . . whether any freight forwarder has failed to comply with any provision of this chapter or with any order, rule, regulation, or requirement issued or established pursuant thereto" as being more inclusive and appropriate in view of the power to "compel compliance" in 49:1003(f) and restated in this subsection. The words "after giving the carrier . . . notice of the investigation and an opportunity for a proceeding" are substituted for "after notice and hearing" in 49:1003(f) and "If such freight forwarder shall not satisfy the complaint within a time specified by the Commission" in 49:1006(a) for clarity and to conform to other sections of the revised title. The words "it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper" are omitted as unnecessary in view of section 10321(a) of the revised title requiring the Commission to carry out the revised subtitle. The words "or there shall be any reasonable ground for investigating said complaint" are omitted as surplus in view of subsection (b). The text of 49:5(8) (less last sentence), (10) and 1011(d), (f) are omitted as unnecessary in view of the restatement of the general investigatory and enforcement power of the Commission. The 2d sentence of 49:13(1) is omitted as surplus.

In subsection (b), the word "person" is substituted for "person, firm, corporation, company, or association, or any mercantile, agricultural, or manufacturing society or other organization . . . or any common carrier" in view of the definition of "person" in section 10102 of the revised title. The words "governmental authority" are substituted for "State board" and "or any body politic or municipal organization" for consistency and as being more inclusive. The words "file . . . a complaint" are substituted for "may make complaint in writing" for consistency. The words "about a violation of this subtitle" are substituted for "of anything done or omitted to be done . . . in contravention of the provisions thereof" in 49:13(1) for clarity. The words "in violation of this section or of section 317 of this title" in 49:316(e) are omitted as surplus in view of the restatement of 49:304(c). The words "must state the facts" are substituted for "shall briefly state the facts" in 49:13(1) and for "state fully the facts" in 49:1006(a) for consistency and in view of the power of the Commission to prescribe regulations to carry out the revised subtitle in section 10321(a) of the revised title.

In subsection (c), the words "which is instituted by the Commission after February 5, 1976" are omitted as executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10704, 10925, 11104, 11705 of this title.

§ 11702. Enforcement by the Interstate Commerce Commission

(a) The Interstate Commerce Commission may bring a civil action—

(1) to enjoin a rail carrier from violating section 10901–10907 or 10933 of this title, or a regulation prescribed or certificate issued under any of those sections;

(2) to enforce section 10930 or 11323 of this title, or subchapter III of chapter 113 of this title and to compel compliance with the order of the Commission under any of those sections and that subchapter;

(3) to enforce an order of the Commission, except a civil action to enforce an order for the payment of money, when it is violated by a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title;

(4) to enforce this subtitle (except a civil action under a provision of this subtitle governing the reasonableness and discriminatory character of rates), or a regulation or order of the Commission or a certificate or permit issued under this subtitle when violated by a motor carrier or broker providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title;

(5) to enforce this subtitle (except a civil action under a provision of this subtitle governing the reasonableness and discriminatory character of rates), or a regulation or order of the Commission or a certificate or permit issued under this subtitle, except a civil action to enforce an order for the payment of money, when violated by a carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title; and

(6) to enforce this subtitle, or a regulation or order of the Commission or permit issued under this subtitle when violated by a carrier providing service subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title.

(b) In a civil action under subsection (a)(4) of this section—

(1) trial is in the judicial district in which the motor carrier or broker operates;

(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1450.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11702(a)(1).	49:1(18)(e) (related to Commission action).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(18)(e) (related to Commission action); added Feb. 5, 1976, Pub. L. 94-210, § 801(a), 90 Stat. 126.
	49:1a(9) (related to Commission action).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1a(9) (related to Commission action); added Feb. 5, 1976, Pub. L. 94-210, § 802, 90 Stat. 130.

HISTORICAL AND REVISION NOTES—Continued

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
	49:1010(i) (related to Commission action).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 410(i) (related to Commission action); added May 16, 1942, ch. 318, § 1, 56 Stat. 293.
11702(a)(2).	49:5(9).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 5(9); added June 16, 1933, ch. 91, § 202, 48 Stat. 219; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 7, 54 Stat. 908; Feb. 5, 1976, Pub. L. 94-210, § 403(a), 90 Stat. 63.
	49:1011(e).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 411(e); added May 16, 1942, ch. 318, § 1, 56 Stat. 294.
11702(a)(3).	49:16(12) (related to Commission action).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 16(12) (related to action by the Commission); added June 18, 1910, ch. 309, § 13, 36 Stat. 535; Oct. 22, 1913, ch. 32, § 1, 38 Stat. 219; Feb. 28, 1920, ch. 91, § 429, 41 Stat. 492; Sept. 18, 1940, ch. 722, § 11(a)(6), 54 Stat. 912.
11702(a)(4).	49:322(b)(1) (less last 18 words of 1st sentence, 2d sentence, and last sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 222(b)(1); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 564; restated Sept. 6, 1965, Pub. L. 89-170, § 4, 79 Stat. 649.
11702(a)(5).	49:916(b) (related to Commission action).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 316(b) (related to Commission action); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946.
11702(a)(6).	49:1017(b)(1) (related to Commission action).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(b) (related to Commission action); added May 16, 1942, ch. 318, § 1, 56 Stat. 297; Aug. 7, 1942, ch. 552, § 2, 56 Stat. 746; Sept. 6, 1965, Pub. L. 89-170, § 5, 79 Stat. 650.
11702(b).....	49:322(b)(1) (1st sentence last 18 words, 2d sentence, last sentence).	

In the section, the words "The district courts of the United States shall have jurisdiction" in 49:5(9) and similar words in the source provisions are omitted as unnecessary in view of sections 1336 and 1337 of title 28. The words "civil action" are added in view of rule 2 of the Federal Rules of Civil Procedure (28 U.S.C. app.).

In subsection (a), the word "lawful" in 49:322(b)(1) is omitted as surplus. The word "regulation" is substituted for "rule" and "regulation" when referring to the Commission for consistency. The word "order" is substituted for "order" and "requirement" as being more inclusive. The words "term" and "condition" are omitted as surplus.

In subsection (a)(2), the word "enforce" is substituted for "to issue such writs of injunction or other proper process, mandatory or otherwise, as may be necessary to restrain such person" in 49:5(9), "by writ of injunction or by other process, mandatory or otherwise" in 49:322(b)(1), 916(b), and 1017(b)(1), and "to issue such writs of injunction or other proper process, mandatory or otherwise" in 49:1011(e) in view of rule 81(b) of the Federal Rules of Civil Procedure (28 U.S.C. app.).

In subsection (a)(3), the last sentence of 49:16(12) is omitted as surplus in view of the Federal Rules of Civil Procedure (28 U.S.C. app.) and section 2321(c) of title 28.

In subsection (b), the word "trial" is added for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11126 of this title.

§ 11703. Enforcement by the Attorney General

(a) The Attorney General may, and on request of the Interstate Commerce Commission shall, bring court proceedings to enforce this subtitle or a regulation or order of the Commission or certificate or permit issued under this subtitle and to prosecute a person violating this subtitle or a regulation or order of the Commission or certificate or permit issued under this subtitle.

(b) The United States Government may bring a civil action on behalf of a person to compel a common carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title to provide that transportation or service to that person in compliance with this subtitle at the same rate charged, or on conditions as favorable as those given by the carrier, for like traffic under similar conditions to another person.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1450.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11703(a).....	49:1(18)(e) (related to action by the Attorney General).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(18)(e) (related to action by the Attorney General); added Feb. 5, 1976, Pub. L. 94-210, § 801(a), 90 Stat. 126.
	49:1a(9) (related to action by the Attorney General).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1a(9) (related to action by the Attorney General); added Feb. 5, 1976, Pub. L. 94-210, § 802, 90 Stat. 130.
	49:12(1)(a) (last sentence less words before 1st semicolon and after last semicolon).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 12(1)(a) (last sentence less words before 1st semicolon and after last semicolon); added Mar. 2, 1889, ch. 382, § 3, 25 Stat. 858; restated Feb. 10, 1891, ch. 128, § 1, 26 Stat. 743; Feb. 28, 1920, ch. 91, § 415, 41 Stat. 484; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Feb. 5, 1976, Pub. L. 94-210, § 207, 90 Stat. 42.

HISTORICAL AND REVISION NOTES—Continued

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
	49:16(12) (related to action by the Attorney General).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 16(12) (related to action by the Attorney General); added June 18, 1910, ch. 309, § 13, 36 Stat. 554; Oct. 22, 1913, ch. 32, § 1, 38 Stat. 219; Feb. 28, 1920, ch. 91, § 429, 41 Stat. 492; Sept. 18, 1940, ch. 722, § 11(a)(6), 54 Stat. 912.
	49:19a(*l*).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 19a(*l*); added Mar. 1, 1913, ch. 92, § 1, 37 Stat. 703; Feb. 28, 1920, ch. 91, § 433, 41 Stat. 493.
	49:20(9).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 20(9); added June 29, 1906, ch. 3591, § 7, 34 Stat. 594; Feb. 28, 1920, ch. 91, § 436, 41 Stat. 496; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
	49:43.	Feb. 19, 1903, ch. 708, § 3, 32 Stat. 848; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; June 25, 1948, ch. 646, § 1, 62 Stat. 909; Oct. 15, 1970, Pub. L. 91-452, § 244, 84 Stat. 931; Dec. 21, 1974, Pub. L. 93-528, § 6(b), 88 Stat. 1709.
	49:916(a), (b) (related to action of the Attorney General).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 316(a), (b) (related to action of the Attorney General); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946; Oct. 15, 1970, Pub. L. 91-452, § 243(b), 84 Stat. 931.
	49:1010(i) (related to enforcement by United States).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 410(i) (related to enforcement by United States); added May 16, 1942, ch. 318, § 1, 56 Stat. 293.
	49:1017(a), (b)(1) (related to action of the Attorney General).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(a), (b)(1) (related to action of the Attorney General); added May 16, 1942, ch. 318, § 1, 56 Stat. 297; Oct. 15, 1970, Pub. L. 91-452, § 243(c), 84 Stat. 931.
	49:1021 (less (a)-(f)).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 421 (less (a)-(f)); added May 16, 1942, ch. 318, § 1, 56 Stat. 299.
11703(b).....	49:23.	Feb. 4, 1887, ch. 104, § 23, 24 Stat. 379; Mar. 2, 1889, ch. 382, § 10, 25 Stat. 862; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; May 16, 1942, ch. 318, § 5, 56 Stat. 301.

In subsection (a), the words "Attorney General" are substituted for "United States attorney" to conform to title 28. See the Act of June 25, 1948, ch. 646, § 1, 62 Stat. 909. The section is made applicable to 49: ch. 8 since a violation of that chapter would give the Attorney General the duty to act under title 28, and in view of 49:20(9) and 43. In view of the restatement of the source provisions, conforming amendments are made to sections 2321 and 2323 of title 28 in section 2(a) of the bill. The 25 words before the last semicolon in 49:12(1)(a) (last sentence) are omitted as obsolete.

In subsection (b), the words "The district courts of the United States shall have jurisdiction" are omitted as surplus in view of sections 1336 and 1337 of title 28. The word "person" is substituted for "person or persons, firm, or corporation" in view of the definition of "person" in section 10102 of the revised title. The words "alleging such violation by a common carrier" are omitted as unnecessary in view of the restatement. The words "of any of the provisions of the act to which this is a supplement and all acts amendatory thereof" are omitted as surplus. The words "interstate traffic" are omitted in view of chapter 105 of this revised subtitle. The words "to compel" are substituted for "to issue a writ or writs of mandamus against . . . commanding . . . to move and transport the traffic" in view of the restatement and rule 81(b) of the Federal Rules of Civil Procedure (28 U.S.C. app.). The words "to furnish cars or other facilities for transportation" are omitted in view of the definition of "transportation" in section 10102 of the revised title. The first proviso is omitted as unnecessary in view of rule 65(c) of the Federal Rules of Civil Procedure (28 U.S.C. app.). The last proviso is omitted as unnecessary in view of the restatement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11126 of this title.

§ 11704. Action by a private person to enjoin abandonment of service

An interested person may bring a civil action to enjoin an abandonment of service in violation of section 10933 of this title or a certificate issued under that section.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1451.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11704.....	49:1010(i) (related to private enforcement).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 410(i) (related to private enforcement); added May 16, 1942, ch. 318, § 1, 56 Stat. 293.

The words "by any court of competent jurisdiction" are omitted as unnecessary in view of sections 1336(a) and 1337 of title 28.

§ 11705. Rights and remedies of persons injured by certain carriers

(a) A person injured because a carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title does not obey an order of the Commission, except an order for the payment of money, may bring a civil action to enforce that order under this subsection.

(b)(1) A common carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title is liable to a person for amounts charged that exceed the applicable rate for transportation or service contained in a tariff filed under subchapter IV of chapter 107 of this title.

(2) A common carrier providing transportation subject to the jurisdiction of the Commis-

sion under subchapter I or III of chapter 105 of this title is liable for damages sustained by a person as a result of an act or omission of that carrier in violation of this subtitle.

(3) A common carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter II or IV of chapter 105 of this title is liable for damages resulting from the imposition of rates for transportation or service the Commission finds to be in violation of this subtitle.

(c)(1) A person may file a complaint with the Commission under section 11701(b) of this title or bring a civil action under subsection (b) (1) or (2) of this section to enforce liability against a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title. A person may begin a proceeding under section 10704 or 10705 of this title to enforce liability under subsection (b)(3) of this section by filing a complaint with the Commission under section 11701(b) of this title.

(2) When the Commission makes an award under subsection (b) of this section, the Commission shall order the carrier to pay the amount awarded by a specific date. The Commission may order a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title to pay damages only when the proceeding is on complaint. The person for whose benefit an order of the Commission requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the carrier does not pay the amount awarded by the date payment was ordered to be made.

(d)(1) When a person begins a civil action under subsection (b) of this section to enforce an order of the Commission requiring the payment of damages by a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title, the text of the order of the Commission must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Commission are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district (A) in which the plaintiff resides, (B) in which the principal operating office of the carrier is located, (C) if a rail carrier, through which the railroad line of that carrier runs, or (D) if a water carrier, in which a port of call on a route operated by that carrier is located. In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

(2) All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

(3) The district court shall award a reasonable attorney's fee as a part of the damages for which a carrier is found liable under this subsection. The district court shall tax and collect that fee as a part of the costs of the action.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1451.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11705(a).....	49:16(12) (related to action by private person).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 16(12) (related to action by private person); added June 18, 1910, ch. 309, § 13, 36 Stat. 535; Oct. 22, 1913, ch. 32, § 1, 38 Stat. 219; Feb. 28, 1920, ch. 91, § 429, 41 Stat. 492; Sept. 18, 1940, ch. 722, § 11(a)(6), 54 Stat. 912.
	49:305(g) (less proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(g) (less proviso); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 550; Sept. 18, 1940, ch. 722, § 20(c)(2), 54 Stat. 922.
	49:916(b) (related to action by private person).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 316(b) (related to action by private person); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946.
	49:1017(b)(1) (related to action by private person).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(b)(1) (related to action by private person); added May 16, 1942, ch. 318, § 1, 56 Stat. 297; Aug. 7, 1942, ch. 552, § 2, 56 Stat. 746; Sept. 6, 1965, Pub. L. 89–170, § 5, 79 Stat. 650.
11705(b)(1).	49:16(3)(c), (g).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 16(3)(c), (g); added June 29, 1906, ch. 3591, § 5, 34 Stat. 590; June 18, 1910, ch. 309, § 13, 36 Stat. 554; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Feb. 28, 1920, ch. 91, § 424, 41 Stat. 491; restated June 7, 1924, ch. 325, § 1, 43 Stat. 633; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 11(a)(2)–(5), 54 Stat. 912; Aug. 26, 1958, Pub. L. 85–762, § 1(1), (2), 72 Stat. 859.
	49:304a(6).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204a(5), (6); added June 29, 1949, ch. 272, § 1, 63 Stat. 280; Aug. 26, 1958, Pub. L. 85–762, § 1(3), (4), 72 Stat. 860; Sept. 6, 1965, Pub. L. 89–170, § 6(b), 79 Stat. 651.

HISTORICAL AND REVISION NOTES—Continued

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
	49:908(f)(4).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 308(f)(4); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 941; June 29, 1949, ch. 272, §§ 3(a), 4, 63 Stat. 281; Aug. 26, 1958, Pub. L. 85-762, § 1(5), (6), 72 Stat. 860.
	49:1006a(6).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 406a(5), (6); added June 29, 1949, ch. 272, § 5, 63 Stat. 282; Sept. 6, 1965, Pub. L. 89-170, § 7, 79 Stat. 651.
11705(b)(2).	49:8 (less words after 9th comma).	Feb. 4, 1887, ch. 104, § 8, 24 Stat. 382; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
	49:908(a), (b) (less words after 9th comma).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 308(a)-(e), (g); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 940; June 29, 1949, ch. 272, §§ 2, 3, 63 Stat. 281.
11705(b)(3).	49:304a(5) (less words between 1st and 2d commas). 49:1006a(5) (less words between 1st and 2d commas).	
11705(c)(1).	49:9.	Feb. 4, 1887, ch. 104, § 9, 24 Stat. 382; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Oct. 15, 1970, Pub. L. 91-452, § 243(a), 84 Stat. 931.
	49:304a(5) (words between 1st and 2d commas). 49:908(c). 49:1006a(5) (words between 1st and 2d commas).	
11705(c)(2).	49:16(1), (2) (1st sentence related to bringing civil action).	Feb. 4, 1887, ch. 104, § 16(1), (2), 24 Stat. 384; Mar. 2, 1889, ch. 382, § 5, 25 Stat. 859; June 29, 1906, ch. 3591, § 5, 34 Stat. 590; restated June 18, 1910, ch. 309, § 13, 36 Stat. 554; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Oct. 22, 1913, ch. 32, § 1, 38 Stat. 219; Feb. 28, 1920, ch. 91, §§ 423, 424, 429, 41 Stat. 491, 492; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 11(a)(1), 54 Stat. 912.
	49:305(g) (less proviso). 49:908(d), (e) (1st sentence related to bringing action).	
	49:1017(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(a); added May 16, 1942, ch. 318, § 1, 56 Stat. 297; Oct. 15, 1970, Pub. L. 91-452, § 243(c), 84 Stat. 931.
11705(d)(1).	49:16(2) (less 1st sentence related to bringing action and less last sentence). 49:908(e) (less 1st sentence related to bringing action and less last sentence).	

HISTORICAL AND REVISION NOTES—Continued

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11705(d)(2).	49:16(4).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 16(4); added June 29, 1906, ch. 3591, § 5, 34 Stat. 590; restated June 18, 1910, ch. 309, § 13, 36 Stat. 554; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Oct. 22, 1913, ch. 32, § 1, 38 Stat. 219; Feb. 28, 1920, ch. 91, § 425, 41 Stat. 492; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
11705(d)(3).	49:908(g). 49:8 (words after 9th comma). 49:16(2) (last sentence). 49:908(b) (words after 9th comma), (e) (last sentence).	

The section restates and consolidates the source provisions for clarity. The text of 49:305(g) (less proviso) is omitted as unnecessary.

In subsection (a), the word "person" is substituted for "party" for clarity. The words "while the same is in effect" in 49:16(12) are omitted as surplus. Changes made to conform to section 11702 of the revised title are explained in the reviser's notes to that section.

Subsection (b)(1) is derived from the source provisions and is stated separately for clarity.

In subsection (b)(2), the words "an act or omission of that carrier in violation of this subtitle" are substituted for "shall do, cause to be done, or permit to be done any act, matter, or thing in this chapter prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing in this chapter required to be done" for clarity. The words "full amount" are omitted as surplus. The words "as a result" are substituted for "in consequence of" for clarity. The words "of any such violation of the provisions of this chapter" are omitted as unnecessary in view of the restatement. The text of 49:908(a) is omitted as unnecessary in view of the restatement.

In subsection (b)(3), the definition of "reparations" is omitted as unnecessary. The word "damages" is substituted for "reparations" for clarity. The words "to be in violation of this subtitle" are substituted for "to have been unjust and unreasonable, or unjustly discriminatory or unduly preferential or unduly prejudicial" for clarity in view of the restatement. See the revision note to section 10101 of the revised title.

In subsection (c)(1), the words "claiming to be damaged" are omitted as surplus. The words "under section 11701(b) of this title" are substituted for "as hereinafter provided for" as being more precise. The words "civil action" are substituted for "suit" in view of rule 2 of the Federal Rules of Civil Procedure (28 U.S.C. app.). The words "in his or their own behalf" are omitted as surplus. The words "in any district court of the United States of competent jurisdiction" are omitted as unnecessary in view of section 1337 of title 28. The words "and must in each case elect which one of the two methods of procedure herein provided for he or they will adopt" in 49:9 are omitted as surplus. The last sentence of 49:9 is omitted as unnecessary in view of title 28. The words "a proceeding under section 10704 or 10705" are substituted for "as provided in section 316(e)" for clarity.

In subsection (c)(2), the words "after hearing on complaint" in 49:16(1) are omitted as unnecessary in view of subchapter II of chapter 5 of title 5. The words "When the Commission makes an award under subsection (b) of this section, the Commission shall order the carrier to pay the amount awarded" are inserted for clarity. The words "by a specific date" and "by the date payment was ordered to be made" are substituted

for "on or before a day named" for clarity. The words "may bring a civil action" are substituted for "may file . . . a complaint setting forth briefly the causes for which he claims damages" in view of rule 2 of the Federal Rules of Civil Procedure (28 U.S.C. app.).

In subsection (d)(2), the words "Trial in the action is in the judicial district" are added for clarity. The words "Such suit in the district court of the United States shall proceed in all respects like other civil suits for damages" are omitted as surplus. The words "except that on the trial of such suit the findings and order of the Commission shall be prima facie evidence of the facts therein stated" are omitted as unnecessary in view of section 10310(a) of the revised title in which 49:14 is restated.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11706 of this title.

§ 11706. Limitation on actions by and against common carriers

(a) A common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title must begin a civil action to recover charges for transportation or service provided by the carrier within 3 years after the claim accrues.

(b) A person must begin a civil action to recover overcharges under section 11705(b)(1) of this title within 3 years after the claim accrues. If that claim is against a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title and an election to file a complaint with the Commission is made under section 11705(c)(1), the complaint must be filed within 3 years after the claim accrues.

(c)(1) A person must file a complaint with the Commission to recover damages under section 11705(b)(2) of this title within 2 years after the claim accrues.

(2) A person must begin a civil action to recover damages under section 11705(b)(3) of this title within 2 years after the claim accrues.

(d) The 3-year period under subsection (b) of this section is extended for 6 months from the time written notice is given to the claimant by the carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the carrier within that 3-year period. The 3-year period under subsection (b) of this section and the 2-year period under subsection (c)(1) of this section are each extended for 90 days from the time the carrier begins a civil action under subsection (a) of this section to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

(e) A person must begin a civil action to enforce an order of the Commission against a carrier for the payment of money within one year after the date the order required the money to be paid.

(f) This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the date of (1) payment of the rate for the transportation or service involved, (2) subsequent refund for over-payment of that rate, or (3) deduction made under section 244 of title 31, whichever is later.

(g) A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the carrier.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1452.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11706(a).....	49:16(3)(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 16(3) (less (c), (g), and (h)); added June 29, 1906, ch. 3591, § 5, 34 Stat. 590; June 18, 1910, ch. 309, § 13, 36 Stat. 534; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Feb. 28, 1920, ch. 91, § 424, 41 Stat. 491; restated June 7, 1924, ch. 325, § 1, 43 Stat. 633; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 11 (a)(2)-(5), 54 Stat. 912; Aug. 26, 1958, Pub. L. 85-762, § 1 (1), (2), 72 Stat. 859.
	49:304a(1).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204a (less (5), (6), and (7)); added June 29, 1949, ch. 272, § 1, 63 Stat. 280; Aug. 26, 1958, Pub. L. 85-762, § 1 (3), (4), 72 Stat. 860; Sept. 6, 1965, Pub. L. 89-170, § 6, 79 Stat. 651.
	49:908(f)(1)(A).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 308(f) (less (4)); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 941; June 29, 1949, ch. 272, §§ 3(a), 4, 63 Stat. 281; Aug. 26, 1958, Pub. L. 85-762, § 1 (5), (6), 72 Stat. 860.
	49:1006a(1).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 406a (less (5), (6), (7)); added June 29, 1949, ch. 272, § 5, 63 Stat. 281; Aug. 26, 1958, Pub. L. 85-762, § 1(7), (8), 72 Stat. 860; Sept. 6, 1965, Pub. L. 89-170, § 7, 79 Stat. 651.
11706(b).....	49:16(3)(c) (words before 3d comma). 49:304a(2) (related to overcharges). 49:908(f)(1)(C) (words before 3d comma). 49:1006a(2) (related to overcharges).	
11706(c)(1).	49:16(3)(b). 49:908(f)(1)(B).	
11706(c)(2).	49:304a(2) (related to damages). 49:1006a(2) (related to damages).	

HISTORICAL AND REVISION NOTES—Continued

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11706(d).....	49:16(3)(c) (less words before 3d comma), (d). 49:304a(2) (words after 7th comma), (3). 49:908(f)(1)(C) (less words before 3d comma), (D). 49:1006a(2) (words after 7th comma), (3).	
11706(e).....	49:16(3)(f). 49:305(g) (less proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 205(g) (less proviso); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 550; Sept. 18, 1940, ch. 722, § 20(c)(2), 54 Stat. 922.
	49:908(f)(3).	
11706(f).....	49:16(3)(i). 49:304a(8). 49:908(f)(5). 49:1006a(8).	
11706(g).....	49:16(3)(e). 49:304a(4). 49:908(f)(2). 49:1006a(4).	

In subsection (a), the words "common carrier" are used to refer to water carriers despite the word "carriers" in 49:908(f)(1) in view of the definition of "carrier" in 49:908(a). The words "must begin a civil action" are substituted for "All actions at law . . . shall be begun" for clarity in view of rule 2 of the Federal Rules of Civil Procedure (28 U.S.C. app.). The words "and not after" are omitted as surplus. The words "or any part thereof" are omitted as surplus.

In subsection (b), the words "action at law" and "and not after" are omitted as surplus. The words "subject to subdivision (d)" in 49:16(3)(c) and comparable words in the other source provisions are omitted as unnecessary in view of the restatement.

In subsection (c), the cross references are added for clarity.

In subsection (d), the words "of any part of the claim" are substituted for "of the claim, or any part or parts thereof" as being more precise.

In subsection (e), the words "within one year after the date the order required the money to be paid" are substituted for "within one year after the date the order" for clarity in view of *Missouri Pacific Railroad Company* v. *Austin*, 292 F.2d 415, 418, 419 (5th Cir. 1961). The words "and not after" are omitted as surplus.

In subsection (f), the words "The provisions of" are omitted as surplus. The word "all" is omitted as surplus. The word "applies" is substituted for "shall extend to and embrace" as being more appropriate. The words "of property or passengers" are omitted as included in "transportation". The words "in connection with any action brought before any court by or against carriers subject to this chapter" in 49:304a(8) and 1006a(8) are omitted as unnecessary in view of the restatement. The comparable words in 49:16(3)(i) and 908(f)(5) including the words "before the Commission or" are also omitted as unnecessary in view of the restatement. The words "The time limitations under this section are extended" are substituted for "*Provided, however,* That with respect to such transportation of property or passengers for or on behalf of the United States, the periods of limitation herein provided shall be extended" for clarity in view of the restatement.

In subsection (g), the word "claim" is substituted for "cause of action" in view of rules 8 and 9 of the Federal Rules of Civil Procedure (28 U.S.C. app.). The word "accrues" is substituted for "deems to accrue" as being more precise. The words "and not after" are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10744 of this title.

§ 11707. Liability of common carriers under receipts and bills of lading

(a)(1) A common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or IV of chapter 105 of this title shall issue a receipt or bill of lading for property it receives for transportation under this subtitle. That carrier and any other common carrier that delivers the property and is providing transportation or service subject to the jurisdiction of the Commission under subchapter I, II, or IV are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this paragraph is for the actual loss or injury to the property caused by (1) the receiving carrier, (2) the delivering carrier, or (3) another carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading and applies to property reconsigned or diverted under a tariff filed under subchapter IV of chapter 107 of this title. Failure to issue a receipt or bill of lading does not affect the liability of a carrier. A delivering carrier is deemed to be the carrier performing the line-haul transportation nearest the destination but does not include a carrier providing only a switching service at the destination.

(2) A freight forwarder is both the receiving and delivering carrier. When a freight forwarder provides service subject to this subtitle and uses a motor common carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title to receive property from a consignor, the motor common carrier may execute the bill of lading or shipping receipt for the freight forwarder with its consent. With the consent of the freight forwarder, a motor common carrier may deliver property for a freight forwarder on the freight forwarder's bill of lading, freight bill, or shipping receipt to the consignee named in it, and receipt for the property may be made on the freight forwarder's delivery receipt.

(b) The carrier issuing the receipt or bill of lading under subsection (a) of this section or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

(c)(1) A common carrier may not limit or be exempt from liability imposed under subsection (a) of this section except as provided in this subsection. A limitation of liability or of the amount of recovery or representation or agreement in a receipt, bill of lading, contract, rule, or tariff filed with the Commission in violation of this section is void.

(2) If loss or injury to property occurs while it is in the custody of a water carrier, the liability of that carrier is determined by its bill of lading and the law applicable to water transportation. The liability of the initial or delivering carrier is the same as the liability of the water carrier.

(3) A common carrier of passengers may limit its liability under its passenger rate for loss or injury of baggage carried on passenger trains, boats, or motor vehicles, or on trains, or boats, or motor vehicles carrying passengers.

(4) A common carrier may limit its liability for loss or injury of property transported under section 10730 of this title.

(d) A civil action under this section may be brought against a delivering carrier in a district court of the United States or in a State court. Trial, if the action is brought in a district court of the United States is in a judicial district, and if in a State court, is in a State, through which the defendant carrier operates a railroad or route.

(e) A carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date that person receives written notice from the carrier that it has disallowed any part of the claim specified in the notice.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1453.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11707(a)(1).	49:20(11) (1st sentence (less last 27 words before 1st semicolon and last 69 words before 1st proviso and less 1st and 2d provisos), 2d sentence 4th and last provisos).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 20(11) (less 1st sentence 2d proviso related to released value, 2d sentence less words before 2d proviso); added June 29, 1906, ch. 3591, § 7, 34 Stat. 595; Mar. 4, 1915, ch. 176, § 1, 38 Stat. 1196; Aug. 9, 1916, ch. 301, § 1, 39 Stat. 441; Feb. 28, 1920, ch. 91, §§ 436–438, 41 Stat. 494; July 3, 1926, ch. 761, § 1, 44 Stat. 835; Mar. 4, 1927, ch. 510, § 3, 44 Stat. 1448; restated Apr. 23, 1930, ch. 208, § 1, 46 Stat. 251; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, § 13(b), 54 Stat. 919.
	49:319.	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 219; added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 563; May 16, 1942, ch. 318, § 3, 56 Stat. 300; restated Aug. 7, 1942, ch. 552, § 1, 56 Stat. 746.
	49:1013 (1st sentence 1st cl.).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 413; added May 16, 1942, ch. 318, § 1, 56 Stat. 295.
11707(a)(2).	49:1013 (less 1st sentence 1st cl.).	
11707(b).....	49:20(12).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 20(12); added June 29, 1906, ch. 3591, § 7, 34 Stat. 595; Mar. 4, 1927, ch. 510, § 3, 44 Stat. 1448; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated June 3, 1948, ch. 386, 62 Stat. 295.
11707(c)(1).	49:20(11) (1st sentence last 27 words before 1st semicolon and last 69 words before 1st proviso).	
11707(c)(2).	49:20(11) (1st sentence 1st proviso).	
11707(c)(3), (4).	49:20(11) (1st sentence 2d proviso related to liability). 49:319.	
11707(d).....	49:20(11) (2d sentence 2d proviso).	
11707(e).....	49:20(11) (2d sentence 3d proviso).	

In the section, the text of 49:319 and 1013 (1st sentence 1st clause) is omitted as unnecessary in view of the restatement.

In subsection (a)(1), the words "providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or IV of chapter 105 of this title" are substituted for "subject to the provisions of this chapter . . . property for transportation from a point in one State or Territory or the District of Columbia to a point in another State, Territory, District of Columbia, or from any point in the United States to a point in an adjacent foreign country" in view of the grant of jurisdiction to the Commission over transportation in interstate commerce in chapter 105 of the revised title. The word "injury" is substituted for "damage, or injury" as being more inclusive. The word "line" is substituted for "line or lines" as being more appropriate because of section 1 of title 1. The words "Failure to issue a receipt or bill of lading does not affect the liability of a carrier" are substituted for "shall be liable . . . whether such receipt or bill of lading has been issued or not" for clarity. The word "full" is omitted as surplus. The last sentence of subsection (a)(1) is substituted for 49:20(11) (2d sentence 4th proviso) for clarity.

In subsection (a)(2), the words "shall be deemed" are omitted as unnecessary.

In subsection (c)(1), the words "or be exempt from" are added for clarity. The word "unlawful" is omitted as surplus.

Subsections (c)(3) and (4) are inserted for clarity and are substituted for "the provisions hereof respecting liability for full actual loss, damage, or injury, notwithstanding any limitation of liability or recovery or representation or agreement or release as to value, and declaring any such limitation to be unlawful and void, shall not apply" for clarity.

In subsection (c)(4), the words "under section 10730 of this title" are inserted for clarity.

In subsection (d) the word "Trial" is added for clarity.

In subsection (e), the words "A carrier may not provide . . . a period of less than" are substituted for "it shall be unlawful for any such receiving or delivering common carrier to provide . . . a shorter period" for clarity. The word "regulation" is omitted as surplus. The words "any part of the claim" are substituted for "the claim or any part or parts thereof" as being more inclusive.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 28 sections 1337, 1445.

§ 11708. Private enforcement: motor carrier and freight forwarder licensing

(a) If a person provides transportation by motor vehicle or service of a freight forwarder in clear violation of section 10921–10924, 10927, 10930–10932, or 11323 of this title, a person injured by the transportation or service may bring a civil action to enforce any such section. In a civil action under this subsection, trial is in the judicial district in which the person who violated that section operates.

(b) A copy of the complaint in a civil action under subsection (a) of this section shall be served on the Interstate Commerce Commission and a certificate of service must appear in the complaint filed with the court. The Commission may intervene in a civil action under subsection (a) of this section. The Commission may notify the district court in which the action is pending that it intends to consider the matter that is the subject of the complaint in a proceeding before the Commission. When that notice is filed, the court shall stay further action pending disposition of the proceeding before the Commission.

(c) In a civil action under subsection (a) of this section, the court may determine the amount of and award a reasonable attorney's fee to the prevailing party. That fee is in addition to costs allowable under the Federal Rules of Civil Procedure.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1454.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11708(a).....	49:322(b)(2) (1st and 2d sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379 § 222(b) (less (1)); added Sept. 6, 1965, Pub. L. 89–170, § 4, 79 Stat. 649.
	49:1017(b)(2) (1st and 2d sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(b) (less (1)); added Sept. 6, 1965, Pub. L. 89–170, § 5, 79 Stat. 650.
11708(b).....	49:322(b)(2) (less 1st, 2d, and last sentences), (3). 49:1017(b)(2) (less 1st, 2d, and last sentences), (3).	
11708(c).....	49:322(b)(2) (last sentence). 49:1017(b)(2) (last sentence).	

In subsection (a), the words "provides transportation . . . service" are substituted for "operates" for consistency. The words "and patent" are omitted to eliminate redundancy and as being obsolete. The words "or any rule, regulation, requirement, or order thereunder" are omitted as being included in the meaning of "section". The words "may bring a civil action" are substituted for "may apply" for clarity in view of rule 2 of the Federal Rules of Civil Procedure (28 U.S.C. app.). The words "to the district court of the United States" are omitted in view of sections 1336 and 1337 of title 28. The 2d sentences of 49:322(b)(2) and 1017(b)(2) are omitted as unnecessary in view of rule 81(b) of the Federal Rules of Civil Procedure (28 U.S.C. app.). The words "In a civil action under this subsection, trial is in" are added for clarity. The words "as of right" are omitted as unnecessary.

In subsection (b), the word "complaint" is substituted for "application" in view of rule 3 of the Federal Rules of Civil Procedure (28 U.S.C. app.). The words "In any action brought under paragraph (2) of this subsection" are omitted as unnecessary in view of the restatement.

In subsection (c), the words "the court may" are substituted for "in the discretion of the court" for clarity. The words "and the plaintiff instituting such action shall be required to give security, in such amount as the court deems proper, to protect the interests of the party or parties against whom any temporary restraining order, temporary injunctive, or other process is issued should it later be proven unwarranted by the facts and circumstances" are omitted as unnecessary in view of rule 65(c) of the Federal Rules of Civil Procedure (28 U.S.C. app.).

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (c), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

§ 11709. Liability for issuance of securities by certain carriers

A carrier issuing a security or assuming an obligation or liability that is void under section 11301 of this title and its directors, officers, attorneys, and other agents who participate in authorizing, issuing, hypothecating, or selling that security, or in authorizing the assumption of that obligation or liability, are jointly and severally liable for the damages sustained by a person who acquires for value, in good faith, and without notice that the issue or assumption is void (1) that security, or (2) a security under which an assumption or liability is void. If a security void under that section is acquired directly from the carrier issuing it, the holder may rescind the transaction and recover the consideration given for the security when it is surrendered to that carrier.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1454.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11709.....	49:20a(11) (2d and 3d sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 20a(11) (2d and 3d sentences); added Feb. 28, 1920, ch. 91, § 439, 41 Stat. 496.

The words "is void under section 11301 of this title" are substituted for "so made void" for clarity. The words "A carrier issuing . . . and its directors . . . who participate . . . are jointly and severally liable" are substituted for "may . . . hold jointly and severally

liable . . . the carrier which issued . . . and its directors" for clarity. The words "full amount" are omitted as surplus. The words "such person may in a suit or action in any court of competent jurisdiction" are omitted as surplus in view of sections 1336 and 1337 of title 28. The words "If a security void under that section" are substituted for "In case any security so made void" for clarity. The words "to that carrier" are added for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11348 of this title.

§ 11710. Liability when property is delivered in violation of routing instructions

(a)(1) When a carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title diverts or delivers property to another carrier in violation of routing instructions in the bill of lading, both of those carriers are jointly and severally liable to the carrier that was deprived of its right to participate in hauling that property for the total amount of the rate it would have received if it participated in hauling the property.

(2) A carrier is not liable under paragraph (1) of this subsection when it diverts or delivers property in compliance with an order or regulation of the Commission.

(3) A carrier to whom property is transported is not liable under this subsection if it shows that it had no notice of the routing instructions before transporting the property. The burden of proving lack of notice is on that carrier.

(b) The court shall award a reasonable attorney's fee to the plaintiff in a judgment against the defendant carrier under subsection (a) of this section. The court shall tax and collect that fee as a part of the costs of the action.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1455.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11710.....	49:15(11).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 15(11); added Feb. 28, 1920, ch. 91, § 420, 41 Stat. 487; Feb. 5, 1976, Pub. L. 94–210, § 202(c), 90 Stat. 35.

In subsection (a), the words "When a carrier . . . diverts or delivers property" are substituted for "Whenever property is diverted or delivered by one carrier" for clarity. The words "in violation of routing instructions" are substituted for "contrary to routing instructions" for clarity. The words "both of those carriers are" substituted for "such carriers shall . . . be" for clarity. The words "in a suit or action in any court of competent jurisdiction" are omitted as unnecessary in view of sections 1336 and 1337 of title 28. The words "A carrier is not liable under paragraph (1) of this subsection" are added for clarity. The word "lawful" is omitted as surplus. The word "rule" is omitted as included in "regulation". The word "rate" is substituted for "rate or charge" in view of the definition of "rate" in section 10102 of the revised title.

In subsection (b), the last sentence is substituted for "to be taxed in the case" for clarity.

CHAPTER 119—CIVIL AND CRIMINAL PENALTIES

Sec.
11901. General civil penalties.
11902. Civil penalty for accepting rebates from common carrier.
11903. Rate, discrimination, and tariff violations.
11904. Additional rate and discrimination violations.
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§ 11901. General civil penalties

(a) Except as otherwise provided in this section, a common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, an officer or agent of that carrier or a receiver, trustee, lessee, or agent of one of them, knowingly violating an order of the Commission under this subtitle is liable to the United States Government for a civil penalty of $5,000 for each violation. Liability under this subsection is incurred for each distinct violation. A separate violation occurs for each day the violation continues.

(b) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, or a receiver or trustee of that carrier, violating a regulation or order of the Commission under section 10761, 10762, 10764, 10765, or 11128(a)(2) or (b) of this title is liable to the United States Government for a civil penalty of $500 for each violation and for $25 for each day the violation continues.

(c) A carrier, receiver, or trustee violating subchapter V of chapter 107 of this title, or a regulation under that subchapter, is liable to the United States Government for a civil penalty of $500 for each violation. A separate violation occurs each day the violation continues.

(d) A person knowingly authorizing, consenting to, or permitting a violation of sections 10901–10907 of this title or of a condition of a certificate or a regulation under any of those sections, is liable to the United States Government for a civil penalty of not more than $5,000.

(e)(1) A carrier, receiver, or operating trustee violating an order or direction of the Commission under section 11123, 11124, 11125, 11127, or 11128(a)(1) of this title is liable to the United States Government for a civil penalty of at least $100 but not more than $500 for each violation and for $50 for each day the violation continues.

(2) A rail carrier, receiver, or operating trustee violating section 11126 of this title is liable to the United States Government for a civil penalty of $100 for each violation. A separate violation occurs for each car not counted when a car count is required under that section.

(f)(1) A person required under subchapter III of chapter 111 of this title to make, prepare, preserve, or submit to the Commission a record concerning transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title that does not make, prepare, preserve, or submit that record as required under that subchapter, is liable to the United States Government for a civil penalty of $500 for each violation.

(2) A carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, and a lessor, receiver, or trustee of that carrier, violating section 11144(b)(1) of this title, is liable to the United States Government for a civil penalty of $100 for each violation.

(3) A carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, a lessor, receiver, or trustee of that carrier, a person furnishing cars or protective services against heat or cold, and an officer, agent, or employee of one of them, required to make a report to the Commission or answer a question that does not make the report or does not specifically, completely, and truthfully answer the question, is liable to the United States Government for a civil penalty of $100 for each violation.

(4) A separate violation occurs for each day a violation under this subsection continues.

(g) A person required to make a report to the Commission, answer a question, or make, prepare, or preserve a record under this subtitle concerning transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, or an officer, agent, or employee of that person that (1) does not make the report, (2) does not specifically, completely, and truthfully answer the question, (3) does not make, prepare, or preserve the record in the form and manner prescribed by the Commission, or (4) does not comply with section 10921 of this title, is liable to the United States Government for a civil penalty of not more than $500 for each violation and for not more than $250 for each additional day the violation continues.

(h)(1) Trial in a civil action under subsections (a)–(f) of this section is in the judicial district in which the carrier has its principal operating office or in a district through which the railroad of the carrier runs.

(2) Trial in a civil action under subsection (g) of this section is in the judicial district in which (A) the motor carrier or broker has its principal office, (B) the motor carrier or broker was authorized to provide transportation under this subtitle when the violation occurred, (C) the violation occurred, or (D) the offender is found. Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1455.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11901(a).....	49:16(8).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 16(8); added June 29, 1906, ch. 3591, § 5, 34 Stat. 590; June 18, 1910, ch. 309, § 13, 36 Stat. 554; restated Feb. 28, 1920, ch. 91, § 426, 41 Stat. 492; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
11901(b).....	49:6(10).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 6(10); added June 18, 1910, ch. 309, § 9, 36 Stat. 548; Feb. 28, 1920, ch. 91, § 409, 41 Stat. 483; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
11901(c).....	49:19a(k) (less 1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 19a(k) (less 1st sentence); added Mar. 1, 1913, ch. 92, § 1, 37 Stat. 701; Feb. 28, 1920, ch. 91, § 433, 41 Stat. 493; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
11901(d).....	49:1(18)(e) (last sentence), 1a(9) (last sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(18)(e) (last sentence), 1a(9) (last sentence); added Feb. 5, 1976, Pub. L. 94-210, §§ 801(a), 802, 90 Stat. 126, 130.
11901(e)(1).	49:1(17)(a) (last sentence less proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(17)(a) (last sentence less proviso); added Feb. 28, 1920, ch. 91, § 402, 41 Stat. 477; Sept. 18, 1940, ch. 722, § 4(b), 54 Stat. 901.
	49:1020 (related to penalties).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 420 (related to penalties); added May 16, 1942, ch. 318, § 1, 56 Stat. 298.
11901(e)(2).	49:1(12) (3d sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(12) (3d sentence); added Feb. 28, 1920, ch. 91, § 402, 41 Stat. 476; Feb. 5, 1976, Pub. L. 94-210, § 310, 90 Stat. 60.
11901(f).....	49:20(7)(a), (c), (d).	Feb. 4, 1887, ch. 104, § 20(7)(a), (c), (d), (e), 24 Stat. 386; June 29, 1906, ch. 3591, § 7, 34 Stat. 593; Feb. 28, 1920, ch. 91, § 436, 41 Stat. 494; restated Sept. 18, 1940, ch. 722, § 13(a), 54 Stat. 918.
11901(g).....	49:322(h) (1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 222(h); added Aug. 2, 1949, ch. 379, § 15, 63 Stat. 488; Sept. 6, 1965, Pub. L. 89-170, § 3, 79 Stat. 649.
11901(h)(1)	49:16(9), (10).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 16(9), (10); added June 29, 1906, ch. 3591, § 5, 34 Stat. 590; restated June 18, 1910, ch. 309, § 13, 36 Stat. 554; Feb. 28, 1920, ch. 91, § 427, 41 Stat. 492; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
	49:20(7)(e).	

HISTORICAL AND REVISION NOTES—Continued

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11901(h)(2)	49:322(h) (less 1st sentence).	

In subsection (a), the word "agent" is substituted for "representative, or agent" as being more inclusive. The word "violating" is substituted for "fails or neglects to obey" as being more precise. The words "is liable to" are substituted for "shall forfeit to" for consistency. The words "under this subtitle" are substituted for "sections 3, 13, or 15 of this title" for clarity since those sections cover the general power of the Commission under section 10321 and chapter 117 of the revised title. The last sentence is substituted for "and in case of a continuing violation each day shall be deemed a separate offense" for clarity.

In subsection (b), the words "violating . . . section . . . of this title" are substituted for "In case of failure or refusal on the part of . . . to comply with the terms of" for clarity and consistency. The words "adopted or promulgated" are omitted as unnecessary. The words "the provisions" are omitted as surplus. The words "and every" are omitted as surplus. The words "which shall accrue . . . and may be recovered in a civil action brought by the United States" are omitted as unnecessary in view of the restatement and section 2461(a) of title 28.

In subsection (c), the word "violating" is substituted for "In case of failure or refusal . . . to comply" for clarity. The words "subchapter V of chapter 107 of this title, or a regulation under that subchapter," are substituted for "all the requirements of this section and in the manner prescribed by the Commission" in view of section 10321 of the revised title. The words "is liable" are substituted for "shall forfeit" for consistency. The words "and every" are omitted as surplus. The words "such forfeitures to be recoverable in the same manner as other forfeitures provided for in section 16 of this title" are omitted as unnecessary in view of the restatement.

In subsection (e)(1), the 1st sentence of 49:1(17)(a) (less proviso) is omitted as unnecessary in view of the authority of the Commission to delegate its functions under section 10305 of the revised title and the general authority of the Commission to carry out the revised subtitle under section 10321 of the revised title. The words "It shall be the duty of all carriers by railroad subject to this chapter, and of their officers, agents, and employees, to obey strictly and conform promptly to such orders or directions of the Commission" are omitted as unnecessary in view of the restatement of the provisions related to car service in subchapter II of chapter 111 of the revised title and in view of the criminal penalties in this revised chapter. The words "violating an order or direction . . . under sections 11123, 11124, 11125, 11127, or 11128(a)(1) of this title" are substituted for "and in the case of failure or refusal on the part of . . . to comply with any such order or direction" for clarity. The words "liable to" are substituted for "which shall accrue to" for clarity. The words "and may be recovered in a civil action brought by the United States" are omitted as unnecessary.

In subsection (e)(2), the words "violating section 11126 of this title" are substituted for "Failure or refusal so to do shall be unlawful" for clarity and consistency. The words "civil penalty" are added for clarity. The words "is liable to the United States Government" are substituted for "shall forfeit to the United States" for consistency. The words "the sum" are omitted as surplus. The words "which may be recovered in a civil action brought by the United States" are omitted as unnecessary in view of the restatement and section 2461(a) of title 28.

Subsection (g) restates the source provisions for clarity and consistency in view of subchapter III of chapter 111 of the revised title. The word "person" is substituted for "motor carrier, broker, lessor, or other person" as being more inclusive. The word "agent" is substituted for "agent . . . representative" as being more inclusive. The words "does not" are substituted for "shall fail or refuse" for clarity.

In subsection (h), the word "trial" is inserted for clarity. The words "All forfeitures provided for in this paragraph shall be payable into the Treasury of the United States" in 49:322(h) are omitted as surplus in view of section 484 of title 31. The words "and shall be recoverable in a civil suit in the name of the United States" are omitted as unnecessary. The 1st sentence of 49:16(10) and 4th sentence of 49:322(h) are omitted as unnecessary in view of title 28. The last sentences of 49:16(10) and 322(h) are omitted as obsolete.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11126, 11348 of this title.

§ 11902. Civil penalty for accepting rebates from common carrier

A person (1) delivering property to a common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title for transportation under this subtitle or for whom that carrier will transport the property as consignor or consignee for that person from a State or territory or possession of the United States to another State or possession, territory, or to a foreign country, and (2) knowingly accepting or receiving by any means a rebate or offset against the rate for transportation for, or service of, that property contained in a tariff filed with the Commission under subchapter IV of chapter 107 of this title, is liable to the United States Government for a civil penalty in an amount equal to 3 times the amount of money that person accepted or received as a rebate or offset and 3 times the value of other consideration accepted or received as a rebate or offset. In a civil action under this section, all money or other consideration received by the person during a period of 6 years before an action is brought under this section may be included in determining the amount of the penalty, and if that total amount is included, the penalty shall be 3 times that total amount.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1457.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11902.....	49:41(3).	Feb. 19, 1903, ch. 708, § 1, 32 Stat. 847; added June 29, 1906, ch. 3591, § 2, 34 Stat. 587.

The word "person" is substituted for "person, corporation, or company" in view of the definition of "person" in section 10102 of the revised title. The words "subject to sections 41, 42, or 43 of this title" are omitted as unnecessary in view of the restatement. The words "State or territory or possession of the United States" are substituted for "State, Territory, or the District of Columbia" in view of the definition of "State" in section 10102 of this title and for consistency. The words "by any means" are substituted for "by

employee, agent, officer, or otherwise, directly or indirectly, by or through any means or device whatsoever" as being more inclusive. The words "contained in a tariff filed with the Commission under subchapter IV of chapter 107 of this title" are substituted for "fixed by the schedules of rates provided for in said sections" for clarity. The words "in addition to any penalty provided by said sections" are omitted as unnecessary. The words between the first and last semicolons are omitted in view of sections 516, 1355, and 2461 of title 28. The words "and in the trial of said action" are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11126, 11916 of this title.

§ 11903. Rate, discrimination, and tariff violations

(a) A person that knowingly offers, grants, gives, solicits, accepts, or receives by any means transportation or service provided for property by a common carrier subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title (1) at less than the rate in effect under chapter 107 of this title, or (2) by practicing discrimination, shall be fined at least $1,000 but not more than $20,000, imprisoned for not more than 2 years, or both.

(b) A carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title or an officer, director, receiver, trustee, lessee, agent, or employee of a corporation that is subject to the jurisdiction of the Commission under that chapter, that willfully does not file and publish its rates or tariffs as required under chapter 107 of this title or observe those tariffs until changed under law, shall be fined at least $1,000 but not more than $20,000, imprisoned for not more than 2 years, or both.

(c) When acting in the scope of their employment, the actions and omissions of persons acting for or employed by a carrier or shipper that is subject to subsection (a) or (b) of this section are considered to be the actions and omissions of that carrier or shipper as well as that person.

(d) Trial in a criminal action under this section is in the judicial district in which any part of the violation is committed or through which the transportation is conducted.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1457.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11903.....	49:41(1) (less 1st sentence), (2) (related to corporate violations).	Feb. 19, 1903, ch. 708, § 1 (1st par. less 1st sentence), (2d par. related to corporate violations), 32 Stat. 847; restated June 29, 1906, ch. 3591, § 2, 34 Stat. 587.

In subsection (a), the words "offers, grants, gives, solicits, accepts, or receives by any means" are substituted for "to offer, grant, or give, or to solicit, accept, or receive any rebate, concession, or discrimination in respect . . . whereby any . . . shall by any device whatever" for clarity in view of section 10761(a) of the revised title. The words "or (2) by practicing discrimination" are substituted for "or whereby any other advantage is given or discrimination is practiced" for consistency. See the revision note to section 10101 of the revised title. The words "transportation or service provided for property by a common carrier subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title" are substituted for "in interstate or foreign commerce and the Acts amendatory thereof" for consistency. The words "than the rate in effect under chapter 107 of this title" are substituted for "than that named in the tariffs published and filed by such carrier, as is required by said Act to regulate commerce and the Acts amendatory thereof" for clarity.

In subsection (b), the word "strictly" is omitted as surplus. The words "shall be a misdemeanor, and upon conviction thereof" are omitted as unnecessary in view of title 18. The proviso in 49:41(1) (2d sentence) is omitted as unnecessary and the penalty of imprisonment provided by it is incorporated in subsections (a) and (b).

In subsection (c), the words "in construing and enforcing the provisions of this section" are omitted as surplus. The word "omissions" is substituted for "omission, or failure" as being more inclusive.

In subsection (d), the words "Every violation of this section shall be prosecuted in any court of the United States having jurisdiction of crimes" are omitted as unnecessary in view of title 18. The words "Trial in a criminal action under this section" are added for clarity. The words "any part of the violation is committed" are substituted for "in which such violation was committed . . . and whenever the offense is begun in one jurisdiction and completed in another" as being more inclusive. The words "it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein" are omitted as unnecessary in view of the restatement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11126, 11916 of this title.

§ 11904. Additional rate and discrimination violations

(a)(1) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, and when that carrier is a corporation, an officer, employee, or agent of the corporation, that by any means knowingly and willfully assists a person in getting, or willingly permits a person to get, transportation provided under this subtitle for property at less than the rate in effect for that transportation under chapter 107 of this title, shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

(2) A person, or officer or agent of the person, that (A) delivers property for transportation under this subtitle to a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, or for whom that carrier transports property as consignor or consignee, and (B) knowingly and willfully by any means gets or attempts to get that property transported at less than the rate in effect for that transportation under chapter 107 of this title, shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

(3) A person, or an officer or agent of a corporation or company that by payment of anything of value, solicitation, or in any other way, induces or attempts to induce a common carrier providing transportation subject to the jurisdic-

tion of the Commission under subchapter I of chapter 105 of this title, or any of its officers or agents, to discriminate unreasonably against another consignor or consignee in the transportation of property shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

(b) A person, or an officer, employee, or agent of that person, that (1) knowingly offers, grants, gives, solicits, accepts, or receives a rebate, concession, or discrimination in violation of a provision of this subtitle related to motor carrier transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, or (2) by any means knowingly and willfully assists or permits another person to get transportation that is subject to the jurisdiction of the Commission under that subchapter at less than the rate in effect for that transportation under chapter 107 of this title, shall be fined at least $200 but no more than $500 for the first violation and at least $250 but not more than $2,000 for a subsequent violation.

(c)(1) A water carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title, or an officer, agent, or employee of that carrier, that knowingly and willfully by any means offers, grants, or gives, or intentionally permits a person to get, transportation provided under that subchapter at less than the rate in effect for that transportation under chapter 107 of this title, shall be fined not more than $5,000.

(2) A person that knowingly and willfully by any means solicits, accepts, or receives transportation provided under subchapter III of chapter 105 of this title at less than the rate in effect for that transportation under chapter 107 of this title, shall be fined not more than $5,000.

(3) Trial in a criminal action under this subsection is in the judicial district in which any part of the violation is committed.

(d)(1) A freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title, or an officer, agent, or employee of that freight forwarder, that knowingly and willfully assists a person in getting, or willingly permits a person to get, service provided under that subchapter at less than the rate in effect for that service under chapter 107 of this title, shall be fined not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

(2) A person that knowingly and willfully by any means gets, or attempts to get, service provided under subchapter IV of chapter 105 of this title at less than the rate in effect for that service under chapter 107 of this title, shall be fined not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1457.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11904(a)(1).	49:10(2).	Feb. 4, 1887, ch. 104, § 10 (less (1)), 24 Stat. 382; Mar. 2, 1889, ch. 382, § 2, 25 Stat. 857; restated June 18, 1910, ch. 309, § 10, 36 Stat. 549; Feb. 28, 1920, ch. 91, § 414, 41 Stat. 483; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
11904(a)(2), (3).	49:10 (less (1) and (2)).	
11904(b).....	49:322(c) (related to rate violations).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 222(c) (related to rate violations); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 564; Aug. 14, 1957, Pub. L. 85-135, § 4(2), 71 Stat. 352.
11904(c).....	49:917(b), (c).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 317(b), (c); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 947.
11904(d).....	49:1021(b), (c).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 421(b), (c); added May 16, 1942, ch. 318, § 1, 56 Stat. 298.

In subsection (a)(1), the word "suffer" is omitted as surplus. The words "by any means" are substituted for "by any other device or means" for clarity and for emphasis. The words "by means of false billing, false classification, false weighing, or false report of weight" are omitted as unnecessary and as included in the words "by any means". The words "in effect . . . under chapter 107 of this title" are substituted for "then established and in force" for clarity in view of the restatement. The words "for that transportation" are substituted for "on the line of transportation" for clarity. The words "shall be deemed guilty of a misdemeanor, and . . . upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed" are omitted as unnecessary in view of title 18 and the Federal Rules of Criminal Procedure (18 U.S.C. app.). The words "be subject to" are omitted as surplus. The words "in the penitentiary for a term" are omitted as surplus. The words "in the discretion of the court" are omitted as unnecessary in view of the restatement. The words "for each offense" are omitted as surplus.

In subsection (a)(2), the words "directly, or indirectly, himself or by employee, agent, or officer, or otherwise" are omitted as surplus in view of section 2 of title 18. The words "by any means" are substituted for "by any other device or means" for clarity and for emphasis. The words "by false billing, false classification, false weighing, false representation of the contents of the package or the substance of the property, false report of weight, false statement," are omitted as unnecessary and as included in the words "by any means". The words "whether with or without the consent or connivance of the carrier, its agent, or officer" are omitted as surplus. The words "by false statement or representation as to cost, value, nature, or extent of injury, or by the use of any false bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, or disposition, knowing the same to be false, fictitious, or fraudulent, or to contain any false, fictitious, or fraudulent statement or entry, obtain or attempt to obtain any allowance, refund, or payment for damage or otherwise in connection with or growing out of the transportation of or agreement to transport such property . . . whereby the compensation of such carrier for such transportation, either before or after payment, shall in fact be made less than the regular rates

then established and in force on the line of transportation" are omitted as unnecessary in view of the restatement. The words "shall be deemed guilty of fraud" are omitted as unnecessary. The words "which is declared to be a misdemeanor, and . . . upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was wholly or in part committed" are omitted as unnecessary in view of title 18 and the Federal Rules of Criminal Procedure (18 U.S.C. app.). The words "be subject for each offense to" are omitted as surplus. The words "in the discretion of the court" are omitted as unnecessary in view of the restatement. The proviso is omitted as unnecessary.

In subsection (a)(3), the words "any such" are omitted as unnecessary. The words "payment of any thing of value" are substituted for "payment of money or other things of value" as being inclusive. The words "any other way" are substituted for "otherwise" for clarity. The words "common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title" are substituted for "common carrier subject to the provisions of this chapter" for consistency in view of the restatement. The word "unreasonably" is substituted for "unjustly" for clarity and consistency. See revision note to section 10101 of the revised title. The words "or shall aid or abet any such common carrier in any such unjust discrimination" are omitted as unnecessary in view of section 2 of title 18. The words "shall be deemed guilty of a misdemeanor" are omitted as surplus in view of section 1 of title 18. The words "upon conviction thereof" are omitted as surplus. The words "in any court of the United States of competent jurisdiction within the district in which such offense was committed" are omitted as unnecessary in view of title 18 and the Federal Rules of Criminal Procedure (18 U.S.C. app.). The words "be fined not more than" are substituted for "be subject to a fine of not exceeding" for consistency. The words after the semicolon in 49:10(4) are omitted as surplus in view of section 11705 of the revised title.

In subsection (b), the words "whether carrier, shipper, consignee, or broker" are omitted as being included in "person". The word "agent" is substituted for "agent, or representative thereof" as being more inclusive. The words "related to motor carrier transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title" are substituted for "of any provision of this chapter" for consistency in view of the restatement. The words "by any means" are substituted for "by means of any false statement or representation, or by the use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device" as being inclusive. The word "permits" is substituted for "suffer or permit" as being inclusive and in view of section 2 of title 18. The word "person" is substituted for "person or persons, natural or artificial" in view of the definition of "person" in section 10102(15) of the revised title. The words "of passengers or property" are omitted as surplus. The words "rate in effect for that transportation under chapter 107 of this title" are substituted for "the applicable rate, fare, or charge" as being more precise and in view of the definition of "rate" in section 10102(19) of the revised title. The words "shall be deemed guilty of a misdemeanor" are omitted as surplus in view of section 1 of title 18. The words "upon conviction thereof" are omitted as surplus. The word "violation" is substituted for "offense" for consistency.

In subsections (c) and (d), the words "whether with or without the consent or connivance of such carrier or his or its officer, agent, employee, or representative" are omitted as surplus. The words "either before or after payment" are omitted as surplus. The words "be deemed guilty of a misdemeanor and upon conviction thereof in any court of the United States of competent jurisdiction" are omitted in view of title 18.

In subsection (e), the word "permits" is substituted for "assist, suffer or permit" as being inclusive and in view of section 2 of title 18. The words "natural or artificial" are omitted as surplus. The words "of passengers or property" are omitted as surplus. The words "be deemed guilty of a misdemeanor and upon conviction thereof" are omitted as unnecessary in view of title 18. The words "offer . . . or receive" are substituted for "offer, grant, accept, or receive". The words "Trial in a criminal action" are inserted for clarity.

§ 11905. Transportation of passengers without charge

A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title that provides transportation of passengers without charge except as provided in section 10721(b), 10722(c) and (d) (if the transportation is for its employees on sleeping and express cars or linemen of telegraph and telephone companies), 10723(a)(1) (other than paragraph (1)(A) of that subsection when transportation is arranged by a municipal government), or 10724(a) of this title, shall be fined at least $100 but not more than $2,000. An individual who uses a free ticket for, or accepts transportation subject to the jurisdiction of the Commission under those subchapters, except as provided in those sections, shall be fined at least $100 but not more than $2,000.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1459.)

Historical and Revision Notes

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11905.....	49:1(7) (less 1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(7) (less 1st sentence); added June 29, 1906, ch. 3591, § 1, 34 Stat. 584; Apr. 13, 1908, ch. 143, § 1, 35 Stat. 60; restated June 18, 1910, ch. 309, § 7, 36 Stat. 546; Feb. 28, 1920, ch. 91, § 401, 41 Stat. 475; June 19, 1934, ch. 652, § 602(b), 48 Stat. 1102; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.

Appropriate cross references to those sections of the revised title to which 49:1(7) (1st sentence) has been distributed are added for clarity, and the words "violating this provision" are omitted as unnecessary. The words "be deemed guilty of a misdemeanor and for each offense on conviction" are omitted as surplus and as unnecessary in view of title 18. The words "shall pay to the United States" are omitted as surplus. The word "individual" is substituted for "person" for consistency when referring to a human being. The word "fined" is substituted for "penalty" for consistency and to distinguish from a civil penalty. The words "free ticket" are substituted for "free ticket, free pass" for consistency. The word "interstate" is omitted in view of the restatement. The last sentence of 49:1(7) is omitted as unnecessary.

Section Referred to in Other Sections

This section is referred to in section 11126 of this title.

§ 11906. Evasion of regulation of motor carriers and brokers

A person, or an officer, employee, or agent of that person that by any means knowingly and willfully tries to evade regulation provided under this subtitle for motor carriers or brokers shall be fined at least $200 but not more than $500 for the first violation and at least $250 but not more than $2,000 for a subsequent violation.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1459.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11906.....	49:322(c) (related to evasion of regulation).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 222(c) (related to evasion of regulation); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 564; Aug. 14, 1957, Pub. L. 85–135, § 4(2), 71 Stat. 352.

The words "whether carrier, shipper, consignee, or broker" are omitted as surplus. The word "agent" is substituted for "agent, or representative thereof" as being more inclusive. The words "be deemed guilty of a misdemeanor and upon conviction thereof" are omitted as unnecessary in view of title 18.

§ 11907. Interference with railroad car supply

(a) A person that offers or gives anything of value to another person acting for or employed by a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title intending to influence an action of that other person related to supply, distribution, or movement of cars, vehicles, or vessels used in the transportation of property, or because of the action of that other person, shall be fined not more than $1,000, imprisoned for not more than 2 years, or both.

(b) A person acting for or employed by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title that solicits, accepts, or receives anything of value (1) intending to be influenced by it in an action of that person related to supply, distribution, or movement of cars, vehicles, or vessels used in the transportation of property, or (2) because of the action of that person, shall be fined not more than $1,000, imprisoned for not more than 2 years, or both.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1459.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11907.....	49:1(17)(b)	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 1(17)(b); added Sept. 18, 1940, ch. 722, § 4(b), 54 Stat. 901.

The words "It shall be unlawful for" are omitted as surplus. The words "cause or procure to be offered or given" are omitted as unnecessary in view of section 2(b) of title 18. The words "directly or indirectly" are omitted as surplus. The words "anything of value" are substituted for "any money, property, or thing of value, or bribe in any other form whatsoever" to conform to section 201(b) of title 18. The word "action" is substituted for "decision or action" as being more inclusive. The words "Any person who violates the provisions of this subparagraph" are omitted as unnecessary. The words "be deemed guilty of a misdemeanor and be subject for each offense" are omitted as unnecessary in view of title 18. The words "in the penitentiary for a term" are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11126 of this title.

§ 11908. Abandonment of service by freight forwarder

A freight forwarder controlled by or under common control with a common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title, or a director, officer, receiver, operating trustee, lessee, agent, or employee of that freight forwarder or common carrier, that knowingly authorizes or permits a violation of section 10933 of this title, shall be fined not more than $5,000.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1459.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11908.....	49:1010(i) (less 1st sentence and 2d sentence words before semicolon).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 410(i) (less 1st sentence and 2d sentence words before semicolon); added May 16, 1942, ch. 318, § 1, 56 Stat. 293.

The words "upon conviction thereof be punished" are omitted as unnecessary in view of title 18.

§ 11909. Record keeping and reporting violations

(a) A person required to make a report to the Interstate Commerce Commission, or make, prepare, or preserve a record, under subchapter III of chapter 111 of this title about transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title that knowingly and willfully (1) makes a false entry in the report or record, (2) destroys, multilates,[1] changes, or by another means falsifies the record, (3) does not enter business related facts and transactions in the record, (4) makes, prepares, or preserves the record in violation of a regulation or order of the Commission, or (5) files a false report or record with the Commission, shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

(b) A person required to make a report to the Commission, answer a question, or make, prepare, or preserve a record under this subtitle about transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, or an officer, agent, or

[1] So in original. Probably should be "mutilates".

employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Commission requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed by the Commission, (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record with the Commission, (6) knowingly and willfully makes a false or incomplete entry in that record about a business related fact or transaction, or (7) knowingly and willfully makes, prepares, or preserves a record in violation of a regulation or order of the Commission, shall be fined not more than $5,000.

(c) A person required to make a report to the Commission, answer a question, or make, prepare, or preserve a record under this subtitle about transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely and truthfully answer that question in 30 days from the date the Commission requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed by the Commission, (4) willfully falsifies, destroys, mutilates, or changes that report, or record, (5) willfully makes a false or incomplete entry in the record about a fact or transaction required under this subtitle, (6) willfully makes, prepares, or preserves a record in violation of a regulation or order of the Commission, or (7) knowingly and willfully files a false report or record with the Commission, shall be fined not more than $5,000. Trial in a criminal action under this subsection is in the judicial district in which any part of the violation is committed.

(d) A freight forwarder, or an officer, agent, or employee of that freight forwarder, required to make a report to the Commission, answer a question, or make, prepare, or preserve a record under this subtitle about transportation subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Commission requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed by the Commission, (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record with the Commission, (6) knowingly and willfully makes a false or incomplete entry in that record about a fact or transaction related to the business of that freight forwarder, or (7) knowingly and willfully makes, prepares, or preserves a record in violation of a regulation or order of the Commission, shall be fined not more than $5,000.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1460.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11909(a).....	49:20(7)(b) (less proviso).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 20(7)(b) (less proviso); added June 29, 1906, ch. 3591, § 7, 34 Stat. 594; Feb. 25, 1909, ch. 193, § 1, 35 Stat. 648; Feb. 28, 1920, ch. 91, § 436, 41 Stat. 494; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 13(a), 54 Stat. 918.
11909(b).....	49:322(g).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 222(g); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 565; restated Sept. 18, 1940, ch. 722, § 25(d), 54 Stat. 928.
11909(c).....	49:917(d).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 317(d); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 948.
11909(d).....	49:1021(d).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 421(d); added May 16, 1942, ch. 318, § 1, 56 Stat. 299.

In subsection (a), the words "cause to be made" are omitted in view of section 2 of title 18. The words "or participate in the making of" are omitted as surplus and in view of section 2 of title 18. The word "record" is substituted for "accounts, records, and memoranda" for clarity. The word "report" is substituted for "any annual or other report" as being more inclusive. The words "required under this section to be filed" are omitted as unnecessary. The word "changes" is substituted for "alter" for consistency. The words "does not enter business related facts and transactions" are substituted for "neglect or fail to make full, true, and correct entries . . . of all facts and transactions appertaining to the business of the carrier, lessor, or person" for clarity in view of the power of the Commission to prescribe the contents of accounts under subchapter III of chapter 111 of the revised title. The words "in violation of a regulation or order of the Commission" are substituted for "contrary to the rules, regulations, or orders of the Commission with respect thereto" for consistency. The words "be deemed guilty of a misdemeanor and shall be subject, upon conviction in any court of the United States of competent jurisdiction" are omitted as unnecessary in view of title 18.

In subsections (b)–(d), the word "person" is substituted for "motor carrier, broker, or other person" as being more inclusive. The words "required to make a report to the Commission, answer a question, or make, prepare, or preserve a record" are added for clarity and to eliminate the need for the text of 49:322(g) (last sentence). The word "prepare" is substituted for "prepared, or compiled" as being more inclusive. The word "preserve" is substituted for "retained" for consistency in view of subchapter III of chapter 111 of the revised title. The word "record" is substituted for "accounts, records, and memoranda" for consistency with subchapter III of chapter 111 of the revised title. The words "under this subtitle about transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title" are substituted for "as required by this chapter" for clarity. The word "agent" is substituted for "agent . . . or representative thereof" as being more inclusive. The words "specifically, completely, and truthfully" are substituted for "specific and full, true, and correct" for clarity. The word "lawfully" is omitted as surplus. The words "makes a false or incomplete entry" are substi-

tuted for "neglect or fail to make full, true, and correct entries" for clarity. The word "regulation" is substituted for "rules, regulations" for consistency when referring to the Commission. The words "be deemed guilty of a misdemeanor and upon conviction thereof be subject for each offense" are omitted as unnecessary in view of title 18.

In subsection (c), the words "Trial in a criminal action" are added for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11348 of this title.

§ 11910. Unlawful disclosure of information

(a)(1) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, or an officer, agent, or employee of that carrier, or another person authorized to receive information from that carrier, that knowingly discloses to another person, except the shipper or consignee, or a person who solicits or knowingly receives (A) information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier for transportation provided under this subtitle without the consent of the shipper or consignee, and (B) that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor the business transactions of the shipper or consignee, shall be fined not more than $1,000.

(2) A motor carrier or broker providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title or an officer, receiver, trustee, lessee, or employee of that carrier or broker, or another person authorized by that carrier or broker to receive information from that carrier or broker may not knowingly disclose to another person, except the shipper or consignee, and another person may not solicit, or knowingly receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier or broker for transportation provided under this subtitle without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

(3) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title, or an officer, receiver, trustee, lessee, agent, or employee of that carrier, or another person authorized by that carrier or person to receive information from that carrier, that knowingly and willfully discloses to another person, except the shipper or consignee, or a person that solicits or knowingly and willfully receives (A) information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier for transportation provided under that subchapter without the consent of the shipper or consignee, and (B) that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor, the business transactions of the shipper or consignee, shall be fined not more than $2,000. Trial in a criminal action under this paragraph is in the judicial district in which any part of the violation is committed.

(4) A freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title, or an officer, agent, or employee of that freight forwarder, or another person authorized by that freight forwarder, or person to receive information, who knowingly and willfully discloses to another person, except the shipper or consignee, or a person that solicits or knowingly and willfully receives (A) information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that forwarder for service provided under that subchapter without the consent of the shipper or consignee, and (B) that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor the business transactions of the shipper or consignee, shall be fined not more than $100 for the first violation and not more than $500 for a subsequent violation. A separate violation occurs each day the violation continues.

(b) This subtitle does not prevent a carrier or broker providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title from giving information—

(1) in response to legal process issued under authority of a court of the United States or a State;

(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; or

(3) to another carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

(c) An employee of the Commission delegated to make an inspection or examination under section 11144 of this title who knowingly discloses information acquired during that inspection or examination, except as directed by the Commission, a court, or a judge of that court, shall be fined not more than $500, imprisoned for not more than 6 months, or both.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1461.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11910(a)(1).	49:15(13) (less proviso), (14).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 15(13), (14); added June 18, 1910, ch. 309, § 12, 36 Stat. 553; Feb. 28, 1920, ch. 91, § 421, 41 Stat. 488; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Feb. 5, 1976, Pub. L. 94–210, § 202(c), 90 Stat. 35.
11910(a)(2).	49:322(e).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 222(e), (f); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 565.
11910(a)(3).	49:917(f) (1st and 2d sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 317 (less (a)–(d)); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 948.

HISTORICAL AND REVISION NOTES—Continued

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11910(a)(4).	49:1021(f) (1st and 2d sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 421(f); added May 16, 1942, ch. 318, § 1, 56 Stat. 299.
11910(b).....	49:15(13) (proviso). 49:322(f). 49:917 (less (a)-(e) and (f) (less 1st and 2d sentences)). 49:1021 (less (a)-(e) and (f) (less 1st and 2d sentences)).	
11910(c).....	49:20(7)(f).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 20(7)(f); added June 29, 1906, ch. 3591, § 7, 34 Stat. 594; Feb. 25, 1909, ch. 193, § 1, 35 Stat. 648; Feb. 28, 1920, ch. 91, § 436, 41 Stat. 494; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 13(a), 54 Stat. 918.
	49:322(d).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 222(d); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 565; restated Sept. 18, 1940, ch. 722, § 25(c), 54 Stat. 928.
	49:917(e). 49:1021(e).	

In subsection (a), the words "It shall be unlawful for" are omitted as surplus. The word "lawfully" is omitted as surplus. The word "permits" is omitted in view of section 2 of title 18. The words "transportation provided under this subtitle" are substituted for "interstate transportation" for consistency. The word "detriment" is substituted for "detriment or prejudice" as being more inclusive. The words "which may be so used" are omitted as unnecessary. The words before "penalty" in 49:15(14) are omitted as unnecessary in view of title 18. The word "fined" is substituted for "penalty" for consistency.

In subsection (a)(2), the words "may not" are substituted for "It shall be unlawful for" for clarity. The words "providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title" are substituted for "engaged in interstate or foreign commerce" in view of the restatement. The word "agent" is omitted to eliminate redundancy.

In subsection (a)(3) and (4), the words "may be" are substituted for "may be or is" in 49:917(f) and 1021(f) as being more inclusive. The words "may disclose" are substituted for "may or does . . . disclose" in 49:917(f) and 1021(f) as being inclusive. The words "be guilty of a misdemeanor and upon conviction thereof in any court of the United States of competent jurisdiction . . . be subject to" are omitted as unnecessary in view of title 18.

In subsection (a)(3), the words "Trial in a criminal action" are inserted for clarity.

In subsection (b), the words "This subtitle does not prevent" are substituted for "Provided, That nothing in this chapter shall be construed to prevent" in 49:15(13) and similar provisions in the other source provisions for clarity. The words "in the exercise of his powers, or to any officer or other duly authorized person seeking such information for the prosecution of persons charged with or suspected of crime" are omitted as unnecessary. The word "employee" is added in subsection (b)(2) for consistency.

In subsection (c), the words "employee of the Commission delegated to make an inspection or examination under section 11144 of this title" are substituted for "Any special agent, accountant, or examiner" for clarity and to be consistent with section 11144 of the revised title and subchapter I of chapter 103 of the revised title. The word "discloses" is substituted for "divulges" for clarity. The word "information" is substituted for "any fact or information" as being more inclusive.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1654 of this title.

§ 11911. Issuance of securities; disposition of funds; restriction on ownership

(a) A director, officer, attorney, or agent of a carrier defined in section 11301(a)(1) of this title or of a person to which that section is made applicable by section 11302(a) of this title that knowingly agrees to or concurs in (1) an issue of securities or assumption of obligations or liability in violation of section 11301 of this title, (2) a disposition of securities in violation of an order of the Interstate Commerce Commission, or (3) an application not authorized by the Commission of the funds derived by the carrier through a disposition of securities shall be fined at least $1,000 but not more than $10,000, imprisoned for at least one year but not more than 3 years, or both.

(b) A person that violates section 11322 of this title shall be fined at least $1,000 but not more than $10,000, imprisoned for at least one year but not more than 3 years, or both.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1462.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11911(a).....	49:20a(11) (last sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 20a(11) (last sentence), (12) (last sentence); added Feb. 28, 1920, ch. 91, § 439, 41 Stat. 496.
	49:314 (related to penalties).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 214 (related to penalties); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 557; restated June 29, 1938, ch. 811, § 15, 52 Stat. 1240; Sept. 18, 1940, ch. 722, § 22(a), 54 Stat. 924; July 10, 1952, ch. 648, § 1, 66 Stat. 542; Sept. 7, 1957, Pub. L. 85-309, § 1, 71 Stat. 631; Feb. 5, 1976, Pub. L. 94-210, § 308(a)(3), 90 Stat. 57.
11911(b).....	49:20a(12) (last sentence).	

In subsection (a), the word "agrees" is substituted for "assents" for clarity. The words "in violation of section 11301 of this title" are substituted for "forbidden by this section" for clarity and to conform to the revised title. The word "disposition" is substituted for "sale or other disposition" as being more inclusive. The words "in the premises" are omitted as surplus. The words "shall be guilty of a misdemeanor and upon conviction . . . punished" are omitted as unnecessary in view of title 18. The words "in the discretion of the court" are omitted as surplus. The text of 49:314 (related to penalties) is omitted as unnecessary in view of the restatement.

In subsection (b), the words "shall be a misdemeanor, and on conviction in any United States court having jurisdiction . . . punished" are omitted as unnecessary in view of title 18.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11348 of this title.

§ 11912. Consolidation, merger, and acquisition of control: violation by a person not a carrier

A person, other than a common carrier, that violates section 11343, 11344, 11345, 11346, or 11347 of this title shall be fined not more than $5,000.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1462.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11912.....	49:5(8) (last sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 5(8) (last sentence); added Sept. 18, 1940, ch. 722, § 7, 54 Stat. 908; Feb. 5, 1976, Pub. L. 94–210, § 403(a), (b)(4), 90 Stat. 63, 65.

The words "A person, other than a common carrier, that" are added for clarity. Since there is no specific penalty for a violation of 49:5(2)–(13), the penalty of 49:10(1) applies to a violation for which no other penalty is provided. The words "section 11343, 11344, 11345, 11346, or 11347 of this title" are substituted for "paragraphs (2) to (13) of this section" in view of the restatement.

§ 11913. Disobedience to subpenas

A person not obeying a subpena or requirement of the Interstate Commerce Commission to appear and testify or produce records shall be fined at least $100 but not more than $5,000, imprisoned for not more than one year, or both.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1463.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11913.....	49:46.	Feb. 11, 1893, ch. 83, § 1, 27 Stat. 443; Oct. 15, 1970, Pub. L. 91–452, § 245, 84 Stat. 931.
	49:305(d) (related to liability).	Feb. 4, 1887, ch. 104, 25 Stat. 379, § 205(d) (related to liability); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 550; Sept. 18, 1940, ch. 722, § 20(c)(2), 54 Stat. 922.
	49:916(a) (related to liability).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 316(a) (related to liability); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946; Oct. 15, 1970, Pub. L. 91–452, § 243(b), 84 Stat. 931.
	49:1017(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 417(a); added May 16, 1942, ch. 318, § 1, 56 Stat. 297; Oct. 15, 1970, Pub. L. 91–452, § 243(c), 84 Stat. 931.

The text of 49:305(d), 916(a), and 1017(a) is omitted as unnecessary in view of the restatement. The words "not obeying" are substituted for "shall neglect or refuse . . . or to answer any lawful inquiry" to eliminate surplus words. The word "appear" is substituted for "attend" for clarity. The words "if in his power to do so" and "lawful" are omitted as surplus. The word "records" is substituted for "books, papers, or documents" for consistency. The words "guilty of a misdemeanor and, upon conviction thereof" are omitted as unnecessary because of section 1 of title 18, and for consistency.

§ 11914. General criminal penalty when specific penalty not provided

(a) When another criminal penalty is not provided under this chapter, a common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, and when that carrier is a corporation, a director or officer of the corporation, or a receiver, trustee, lessee, or person acting for or employed by the corporation that, alone or with another person, willfully violates this subtitle or an order prescribed under this subtitle, shall be fined not more than $5,000. However, if the violation is for discrimination in rates charged for transportation, the person may be imprisoned for not more than 2 years in addition to being fined under this subsection. A separate violation occurs each day a violation of section 11321(a) or 11342 of this title continues.

(b) When another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates a provision of this subtitle or a regulation or order prescribed under this subtitle, or a condition of a certificate or permit issued under this subtitle related to transportation that is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, shall be fined at least $100 but not more than $500 for the first violation and at least $200 but not more than $500 for a subsequent violation. A separate violation occurs each day the violation continues.

(c) When another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates a provision of this subtitle or a regulation or order prescribed under this subtitle, or a condition of a certificate or permit issued under this subtitle related to transportation that is subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title, shall be fined not more than $500. A separate violation occurs each day the violation continues. Venue in a criminal action under this subsection is in the judicial district in which any part of the violation was committed.

(d) When another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates a provision of this subtitle or a regulation or order prescribed under this subtitle or a condition of a permit issued under this subtitle related to service that is subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title, shall be fined not more than $100 for the first violation and not more than $500 for a subsequent violation. A separate violation occurs each day the violation continues.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1463.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11914(a).....	49:5(1) (words between semicolon and 1st colon).	Feb. 4, 1887, ch. 104, § 5(1) (words between semicolon and 1st colon), 24 Stat. 380; Feb. 28, 1920, ch. 91, § 407, 41 Stat. 480; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; restated Sept. 18, 1940, ch. 722, § 7, 54 Stat. 905.
	49:5(15) (words after semicolon).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 5(15) (words after semicolon); added Aug. 24, 1912, ch. 390, § 11, 37 Stat. 567; Feb. 28, 1920, ch. 91, § 408, 41 Stat. 482; June 16, 1933, ch. 91, § 203, 48 Stat. 220; restated Sept. 18, 1940, ch. 722, § 7, 54 Stat. 909; Feb. 5, 1976, Pub. L. 94-210, § 403(a), 90 Stat. 63.
	49:10(1).	Feb. 4, 1887, ch. 104, § 10(1), 24 Stat. 382; Mar. 2, 1889, ch. 382, § 2, 25 Stat. 857; restated June 18, 1910, ch. 309, § 10, 36 Stat. 549; Feb. 28, 1920, ch. 91, § 414, 41 Stat. 483; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.
	49:16(7).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 16(7); added June 29, 1906, ch. 3591, § 5, 34 Stat. 591; restated June 18, 1910, ch. 309, § 13, 36 Stat. 554; Feb. 28, 1920, ch. 91, § 425, 41 Stat. 492.
11914(b).....	49:322(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 222(a); added Aug. 9, 1935, ch. 498, § 1, 49 Stat. 564; Aug. 14, 1957, Pub. L. 85-135, § 4(1), 71 Stat. 352.
11914(c).....	49:915(e).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 315(e); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 946.
	49:917(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 317(a); added Sept. 18, 1940, ch. 722, § 201, 54 Stat. 947.
11914(d).....	49:1016(d).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 416(d); added May 16, 1942, ch. 318, § 1, 56 Stat. 297.
	49:1021(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 421(a); added May 16, 1942, ch. 318, § 1, 56 Stat. 298.

In subsection (a), the words "person acting for" are substituted for "agent, or person acting for" as being more inclusive. The word "person" is substituted for "corporation, company, person, or party" for clarity in view of the definition of "person" in section 10102 of the revised title. The words "that . . . violates this subtitle" are substituted for "shall . . . do or cause to be done, or shall . . . suffer or permit to be done, any act, matter, or thing in this chapter prohibited or declared to be unlawful . . . or shall . . . omit or fail to do any act, matter, or thing in this chapter required to be done, or shall cause or . . . suffer or permit any act, matter, or thing so directed or required by this chapter to be done; not to be so done . . . or shall be guilty of any infraction of this chapter" for clarity and to conform to section 2 of title 18. The words "who shall aid or abet therein" are omitted in view of section 2 of title 18. The words "shall be deemed guilty of a misdemeanor, and . . . , upon conviction thereof in any district court of the United States within the jurisdiction of which such offense was committed" are omitted as surplus and as unnecessary in view of title 18 and the Federal Rules of Criminal Procedure (18 U.S.C. app.). The word "However" is substituted for "Provided, That" for consistency. The word "violation" is substituted for "offense" for consistency. The words "shall be convicted as aforesaid" are omitted as surplus. The words "discrimination in rates charged" are substituted for "unlawful discrimination in rates, fares, or charges" for clarity and consistency. The words "of passengers or property" are omitted as surplus. The words "or the transmission of intelligence" are omitted as repealed by section 602(b) of the Act of June 19, 1934, ch. 652, 48 Stat. 1102, since those words do not apply to 49:1(5½) or (7), the only remaining provisions related to communication in 49:ch. 1 that were not repealed by that Act. The words "in the penitentiary for a term" are omitted as surplus. The words "in the discretion of the court" are omitted as unnecessary in view of the restatement.

In subsections (b)–(d), the word "order" is substituted for "requirement" as being inclusive. The word "regulation" is substituted for "rule, regulation" for consistency. The word "criminal" is added for clarity. The words "shall, upon conviction thereof" are omitted as surplus.

In subsection (c), the words "Venue in a criminal action under this subsection" are added for clarity. The words "any part of" are substituted for "in whole or in part" for clarity.

§ 11915. Punishment of corporation for violations committed by certain individuals

An act or omission that would be a violation of this subtitle if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title that is a corporation is also a violation of this subtitle by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that carrier are considered to be the actions and omissions of that carrier as well as that individual.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1464.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11915.....	49:41(1) (1st sentence), (2) (related to corporate violations).	Feb. 19, 1903, ch. 708, § 1 (1st par. 1st sentence) (2d par. related to corporate violations), 32 Stat. 847; restated June 29, 1906, ch. 3591, § 2, 34 Stat. 587.

The words "that would be a violation of this subtitle" are substituted for "would constitute a misdemeanor under said Acts or under sections 41, 42, or 43

of this title" for consistency. The words "providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title" are substituted for "subject to the Act to regulate commerce and the Acts amendatory thereof" for consistency. The word "is" is substituted for "shall also be held to be" for clarity. The words "upon conviction thereof" are omitted as surplus. The 2d sentence is substituted for "it shall be subject to like penalties as are prescribed in said Acts or by sections 41, 42, or 43 of this title" for consistency in view of the restatement. The words "except as such penalties are herein changed" are omitted as unnecessary in view of the restatement. The words "in construing and enforcing provisions of this section" are omitted as surplus. The word "omissions" is substituted for "omission, or failure" as being more inclusive.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11126 of this title.

§ 11916. Conclusiveness of rates in certain prosecutions

When a carrier files with the Interstate Commerce Commission or publishes a particular rate under chapter 107 of this title or participates in one of those rates, the published or filed rate is conclusive proof against that carrier, its officers, and agents that it is the legal rate for that transportation or service in a proceeding begun under section 11902 or 11903 of this title. A departure, or offer to depart, from that rate is a violation of those sections.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1464.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
11916.....	49:41(2) (last sentence).	Feb. 19, 1903, ch. 708, § 1 (2d par. last sentence), 32 Stat. 847; restated June 29, 1906, ch. 3591, § 2, 34 Stat. 587.

The section restates the source provision for clarity. The word "is" is substituted for "shall be . . . deemed to be" for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11126 of this title.